

EXHIBIT 5

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

IN RE JOHNSON & JOHNSON	§
TALCUM POWDER PRODUCTS	§ MDL NO.:
MARKETING, SALES	§
PRACTICES, AND PRODUCTS	§ 16-2738(MAS)(RLS)
LIABILITY LITIGATION	§

REMOTE VIDEOCONFERENCED DEPOSITION OF
LAURA MASSEY PLUNKETT, PH.D.

DECEMBER 21, 2023

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Job No. 348854

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1 REMOTE VIDEOCONFERENCED DEPOSITION OF LAURA	1 I N D E X
2 MASSEY PLUNKETT, PH.D., produced as a witness at the	2 PAGE
3 instance of the Defendants, and remotely duly sworn	3 Appearances 3
4 by agreement of all counsel, was taken in the above-	4 Request for Production 52
5 styled and numbered cause on December 21, 2023, from	5 Request for Production 53
6 9:03 a.m. to 1:40 p.m., before Karen L. D. Schoeve,	6 Request for Production 56
7 RDR, CRR, RSA, reported remotely by computerized	7 Request for Production 56
8 machine shorthand, pursuant to the Federal Rules of	8
9 Civil Procedure and the provisions stated on the	9
10 record or attached hereto.	10 LAURA MASSEY PLUNKETT, Ph.D.
11	11 Examination By Mr. Hegarty 9
12	12
13 REPORTER'S NOTE: Please note that due to the	13
14 quality of a Zoom videoconference and transmission	14 Changes and Signature 200
15 of data, overspeaking can cause audio distortion	15
16 which disrupts the process of preparing a	16 Certified Stenographic
17 videoconference transcript.	17 Court Reporter's Certificate 202
18	18
19 Quotation marks are used for clarity and do	19
20 not necessarily reflect a direct quote.	20
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1 A P P E A R A N C E S	1 EXHIBIT INDEX
2 *****	2
3 ALL PARTIES APPEARED REMOTELY VIA ZOOM	3 NO. DESCRIPTION PAGE
4 *****	4 Exhibit 1 38
5 FOR THE PLAINTIFFS and THE WITNESS:	5 Document titled "List of Testimony for
6 TED G. MEADOWS, ESQUIRE	6 Dr. Laura M. Plunkett, Ph.D, DABT"
7 LEIGH O'DELL, ESQUIRE	7 (7 pages)
8 RYAN BEATTIE, ESQUIRE	8 Exhibit 2 48
9 BEASLEY ALLEN, P.C.	9 Curriculum Vitae of Laura M. Plunkett,
10 218 Commerce Street	10 Ph.D., D.A.B.T.
11 Montgomery, Alabama 36104	11 (17 pages)
12 T: 800.898.2034	12
13 F: 888.212.9702	13 Exhibit 3 68
14 ted.meadows@beasleyallen.com	14 Document titled, "Materials Considered
15 leigh.odell@beasleyallen.com	15 and/or relied on"
16 ryan.beattie@beasleyallen.com	16 (109 pages)
17 FOR THE PLAINTIFFS:	17
18 CHRISTOPHER V. TISI, ESQUIRE	18 Exhibit 4 70
19 LEVIN PAPANTONIO RAFFERTY	19 Invoices to Beasley Allen, P.C.
20 316 South Baylen Street	20 (6 pages)
21 Pensacola, Florida 32502	21
22 T: 850.435.7000	22 Exhibit 5 71
23 F: 850.435.7000	23 Second Amended Expert Report of Laura
24 ctisi@levinlaw.com	24 M. Plunkett, Ph.D., D.A.B.T., dated
25 FOR THE DEFENDANTS:	25 11/15/23
18 MARK C. HEGARTY, ESQUIRE	18
19 SHOOK, HARDY & BACON L.L.P.	19 Exhibit 6 159
20 2555 Grand Boulevard	20 Federal Register, dated 05/06/22
21 Kansas City, Missouri 64108	21 (22 pages)
22 T: 816.474.6550	22
23 F: 816.421.5547	23 Exhibit 7 159
24 mhegarty@shb.com	24 Johnson & Johnson press release titled
25 ALSO PRESENT:	25 Johnson & Johnson Consumer Health to
23 Katie Tucker, Paralegal	23 Transition Global Baby Powder
24 Beasley Allen, P.C.	24 Portfolio to Cornstarch," dated
25 CERTIFIED STENOGRAPHIC COURT REPORTER:	25 08/11/22
Karen L. D. Schoeve, CRR, RDR, RSA	25 (1 page)

<p style="text-align: right;">Page 6</p> <p>1 Exhibit 8 159 2 Johnson & Johnson press release titled 3 Johnson & Johnson Consumer Health 4 Announces Discontinuation of 5 Talc-based Johnson's Baby Powder in 6 U.S. and Canada, "dated 05/19/20 7 (1 page) 8 Exhibit 9 160 9 Medical literature titled "Effects of 10 risk factors for ovarian cancer in 11 women with and without endometriosis," 12 dated 01/11/22 13 (16 pages) 14 Exhibit 10 160 15 Medical literature titled "Genital 16 Powder Use and Risk of Epithelial 17 Ovarian Cancer in the Ovarian Cancer 18 in Women of African Ancestry 19 Consortium," dated 2021 20 (9 pages) 21 Exhibit 11 160 22 Medical literature titled 23 Transcriptomic and epigenomic effects 24 of insoluble particles on 25 macrophages, "dated 07/17/20 (18 pages) Exhibit 12 160 Medical literature titled "Talc, body powder, and ovarian cancer: A summary of the epidemiologic evidence," dated 04/11/21 (10 pages) Exhibit 13 161 FDA Compliance Policy for Cosmetic Product Facility Registration and Cosmetic Product Listing, dated 11/23 (5 pages) Exhibit 14 161 Medical literature titled "Johnson & Johnson regrets 1971 study that injected asbestos into US prisoners" dated 03/15/22 (1 page)</p>	<p style="text-align: right;">Page 8</p> <p>1 Exhibit 23 163 2 Document titled "Appendix C" 3 (11 pages) 4 Exhibit 24 163 5 Invoices to Beasley Allen, P.C. 6 (3 pages) 7 Exhibit 25 163 8 Curriculum Vitae of Laura M. Plunkett, 9 Ph.D., D.A.B.F. 10 (17 pages) 11 Exhibit 26 164 12 Excerpts of depositions of Laura M. 13 Plunkett, Ph.D. 14 (11 pages) 15 Exhibit 27 164 16 Notice of Oral Deposition of Laura M. 17 Plunkett, Ph.D. and Duces Tecum, dated 18 12/13/23 19 (9 pages) 20 21 22 23 24 25</p>
<p style="text-align: right;">Page 7</p> <p>1 Exhibit 15 161 2 Medical literature titled "A critical 3 review of talc and ovarian cancer" 4 (31 pages) 5 Exhibit 16 161 6 Medical literature titled "Systemic 7 review of the association between talc 8 and female reproductive tract 9 cancers," dated 02/03/23 (16 pages) 10 Exhibit 17 161 11 Medical literature titled "Talc powder 12 and ovarian cancer: What is the 13 evidence?" (3 pages) 14 Exhibit 18 162 15 Medical literature titled "Talcum 16 powder induces malignant 17 transformation in normal human primary 18 ovarian epithelial cells," dated 04/23 19 (8 pages) 20 Exhibit 19 162 21 Medical literature titled "Insights 22 into the Role of Oxidative Stress in 23 Ovarian Cancer," dated 05/08/21 24 (20 pages) 25 Exhibit 20 162 Medical literature titled "Association of Powder Use in the General Area With Risk of Ovarian Cancer" (18 pages) Exhibit 21 162 Medical literature titled "Association Between the Frequent Use of Perineal Talcum Powder Products and Ovarian Cancer: A Systematic Review and Meta-analysis," dated 02/02/22 (16 pages) Exhibit 22 163 Second Amended Expert Report of Laura M. Plunkett, Ph.D., D.A.B.F., dated 11/15/23 (111 pages)</p>	<p style="text-align: right;">Page 9</p> <p>1 PROCEEDINGS 2 THE COURT REPORTER: Today is 3 December 21st, 2023. The time is 9:03 a.m. 4 If the attorneys could please 5 introduce themselves for the record and the parties 6 on Zoom, then I'll swear in the witness. 7 MR. MEADOWS: Ted Meadows on behalf of 8 MDL plaintiffs and with Dr. Laura Plunkett. 9 MR. TISI: Chris Tisi on behalf of MDL 10 plaintiffs. 11 MR. BEATTIE: Ryan Beattie on behalf 12 of MDL plaintiffs. 13 MS. O'DELL: Leigh O'Dell on behalf of 14 the MDL plaintiffs. 15 MR. HEGARTY: Mark Hegarty on behalf 16 of the Johnson & Johnson defendants. 17 LAURA MASSEY PLUNKETT, PH.D., 18 having been first duly sworn to tell the truth, the 19 whole truth, and nothing but the truth, so help her 20 God, testified as follows: 21 EXAMINATION 22 BY MR. HEGARTY: 23 Q. Good morning, Dr. Plunkett. 24 A. Good morning. 25 Q. Would you please start by telling us your</p>

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1 name.
 2 A. Laura Massey Plunkett.
 3 Q. Again, good morning. My name is Mark
 4 Hegarty. I think you know that. I represent the
 5 Johnson & Johnson defendants. We're here today to
 6 take your deposition in the NRA Johnson & Johnson
 7 talcum powder products' MDL action. You and I have
 8 been together for depositions before on several
 9 occasions.
 10 Do you recall that?
 11 A. I do.
 12 Q. We're here today to discuss the amendments
 13 to your prior MDL report from June 2021 as set out
 14 in your November 15th, 2023, second amended MDL
 15 report.
 16 Do you understand that?
 17 A. Yes, I do.
 18 Q. Related, we're here today to determine if
 19 any of your opinions have changed or are new and/or
 20 if you intend to refer to any additional literature
 21 or materials that were not identified as of when you
 22 were last deposed and testified in your MDL
 23 deposition back in August of 2021.
 24 Do you understand that?
 25 A. Yes, I do.

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1 Q. So are you prepared today to discuss the
 2 latest amendments to your MDL report and -- as well
 3 as any changed or new opinions and to identify any
 4 additional literature or materials as support for
 5 your opinions that were not identified as of your
 6 last deposition?
 7 A. I am.
 8 Q. Where are you testifying from today?
 9 A. I'm in Houston, Texas, at a conference
 10 room at a hotel, the JW Marriott, in the Galleria
 11 area, Houston, Texas.
 12 Q. Is anyone with you in the room?
 13 A. Yes.
 14 Q. Who is with you?
 15 A. Mr. Meadows, who's already introduced
 16 himself; Mr. Beattie; Mr. Tisi; and Ms. Tucker.
 17 Q. Did you bring any materials with you to
 18 the deposition; that is, do you have copies of any
 19 materials or documents with you?
 20 A. Yes, some.
 21 Q. What do you have with you today?
 22 A. I have a copy of my second amended expert
 23 report. I have a copy of my bills. I have a copy
 24 of the CV, the bills that we sent to you, the new --
 25 the additional billing.

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1 I have a copy of my revised CV, my new
 2 CV, and I have a copy of the new articles,
 3 scientific articles, that I identified that are
 4 cited in the second amended report that weren't
 5 cited in my report from June of 2021.
 6 And I also have a copy of some
 7 articles that were listed in my Appendix C reliance
 8 list. I also have that with me, the new one from
 9 the second amended report as well. So things that
 10 were not listed in the Appendix C from the June 2021
 11 report.
 12 Q. As far as the articles, approximately how
 13 many articles do you have with you?
 14 A. There's seven articles that are cited in
 15 the second amended report that were not cited in the
 16 August 2021 report that are also listed in -- you
 17 know, I have a reliance list for cited references,
 18 those seven.
 19 And then I have, in addition to that,
 20 nine documents. They're not all published articles,
 21 but there's nine additional documents that are --
 22 were cited in the Appendix C from the second amended
 23 report that I also copied and brought.
 24 Q. Okay. As far as the seven articles go,
 25 can you read for me the first author's last name and

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1 the date of publication?
 2 A. Yes, I can. Do you want me to start?
 3 Q. Please.
 4 A. There's Harper -- Amy K. Harper, et al.,
 5 2023.
 6 There's Emi, E-m-i, initial T, et al.,
 7 2021.
 8 There's an article by Ding, D-i-n-g,
 9 initials D. N., et al., from 2021.
 10 There's an article by O'Brien, K. D.
 11 M., from 2020 in JAMA.
 12 There's an article by first author
 13 Woolen, S., as in "Sam," A. initials, from 202- --
 14 published 2022.
 15 And there's an article Davis, C. P.,
 16 the initials, et al., from 2021.
 17 And finally, an article; last name
 18 Phung, P-h-u-n-g, initials M. T., et al., from 2022.
 19 Q. Can you do the same for me with regard to
 20 the nine articles that are not specifically called
 21 out in the body of your report that are -- but that
 22 are on your "Materials Considered" list?
 23 A. Sure.
 24 Q. Whatever shorthand way is best to identify
 25 them.

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1 A. Okay. So I -- and actually, these --
 2 these two -- first two are actually footnotes with
 3 links in my report.
 4 There's two printouts of press
 5 releases from the Johnson & Johnson website. One is
 6 dated May 19th, 2020, and one is a media statement
 7 dated August 11, 2022. And they were cited through
 8 a footnote in my report, but they're also in
 9 Appendix C.
 10 There's an article by Wentzensen,
 11 W-e-n-t-z-e-n-s-e-n, and O'Brien from 2021.
 12 There's the -- also, there was a link
 13 to the FDA document called "Compliance Policy for
 14 Cosmetic Product Facility Registration and Cosmetic
 15 Product Listing, Guidance for Industry," November
 16 2023. It's five pages. I printed that.
 17 I cited to, I think, a link to the EPA
 18 Federal Register Notice from May 6th, 2022, for a
 19 proposed rule related to asbestos, and I printed
 20 that.
 21 There's an article by Dyer, D-y-e-r,
 22 Owen, from BMJ from 2022.
 23 There's an article -- the first author
 24 Goodman, initials J. E., from 2020.
 25 There's an article by Lynch,

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1 L-y-n-c-h, H. N., from 2023.
 2 And there's an article by Micha,
 3 M-i-c-h-a, J. P., et al., from 2022.
 4 And I should also point out in my
 5 Appendix C, for a couple of these articles, there
 6 were supplemental materials. And I also have those
 7 printed and attached to the articles.
 8 Q. Thank you.
 9 Have we now covered all of the
 10 materials that you have brought with you to today's
 11 deposition?
 12 A. Other than the CV -- oh, I have -- I have
 13 one other thing. I have the printout of three
 14 different, I guess, sections of depositions, which
 15 actually I believe were between you and I in 2017.
 16 Three days we spent in St. Louis together. And I
 17 printed those out because they deal with some of the
 18 opinions I had already expressed about misbranding.
 19 Q. So have we now covered all the materials
 20 that you brought with you today?
 21 A. Yes.
 22 Q. Have you prepared any notes or other
 23 materials for this case since your last MDL
 24 deposition in 2021 besides your November 15, 2023,
 25 MDL report?

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1 A. No.
 2 Q. As we've been discussing, you have been
 3 deposited prior to today in the MDL.
 4 And do you recall that the last
 5 deposition was back in August of 2021?
 6 A. I do.
 7 Q. Now, did you go back and review your
 8 testimony from -- I'm sorry.
 9 MR. MEADOWS: Just for clarity's sake
 10 for the record, and I -- I think I understand what
 11 you're saying when you keep referring to the last
 12 MDL deposition. But there has been testimony given
 13 since then, both in court and in depositions, as
 14 recently as just a few weeks ago in this very same
 15 hotel to J&J, at the request of J&J.
 16 The last deposition was in Mississippi
 17 AG case. So I'm sure you're aware of that. But I
 18 just, for clarity's sake on the record, I just
 19 wanted to make sure that -- so we're clear on that.
 20 MR. HEGARTY: And I was very, very
 21 specific as to the MDL deposition in August 2021.
 22 BY MR. HEGARTY:
 23 Q. Did you go back and review your August
 24 2021 MDL deposition to prepare to testify today?
 25 A. No.

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1 Q. Do you recall reviewing that testimony at
 2 some point in time?
 3 A. I did. After the deposition, I reviewed,
 4 and I made -- may -- I think I may have even made
 5 some small corrections to the transcript -- the copy
 6 of the transcript that was submitted back to the
 7 court.
 8 Q. Other than those few small corrections,
 9 were you satisfied, as far as the accuracy goes, of
 10 the transcription of that deposition?
 11 A. I guess so. I don't -- don't know that I
 12 would -- I mean, I don't think I -- it's an issue of
 13 being satisfied. But I believe it was -- reflected
 14 what was discussed accurately at the deposition.
 15 Q. Was there any testimony that you recall
 16 that you thought was inaccurate or that you wanted
 17 to change?
 18 A. Only if I made a correction. No, there
 19 would be nothing else.
 20 Q. Thank you.
 21 Have you reviewed any of your other
 22 depositions in the talcum powder cases besides the
 23 August 2021 MDL deposition -- that had occurred
 24 since that date to prepare to testify here today?
 25 A. I didn't do -- not for the purpose of

<p style="text-align: right;">Page 18</p> <p>1 preparing for today, but I have reviewed other 2 testimony since that time period. 3 Q. What other testimony have you reviewed 4 since August of 2021 in talcum powder cases? 5 A. So I -- okay. 6 (Speaking simultaneously.) 7 A. Sorry, I didn't mean to talk over you. I 8 apologize. 9 I reviewed the deposition from a few 10 weeks ago, I believe. I think I have had that 11 deposition to look at. I seem to recall that. And 12 then I also would have reviewed -- so there were -- 13 there was at least one trial that occurred after my 14 August 2021 deposition in the MDL. 15 And before that trial testimony, I 16 know I did look at transcripts of both -- some of my 17 previous trial testimony. I can't tell you which 18 ones. It's been a while. But I did do that. I 19 typically will -- when I'm getting ready for -- to 20 go on the stand in a trial. 21 Q. Focusing just on your more -- most recent 22 deposition, which was in the Mississippi AG action, 23 which I believe was in October of 2023, do you 24 recall seeing any testimony that you thought was 25 inaccurate or that needed to be changed?</p>	<p style="text-align: right;">Page 20</p> <p>1 A. Not in any general terms. I mean, if you 2 ask me to -- if you're asking me is to describe what 3 I typically do and how -- and how I spend my time, 4 it would be essentially the same. 5 Q. Has there been any change in terms of the 6 employees that you have in your business since 7 August of 2021? Any additions, anyone no longer 8 working there as of August of 2021? 9 A. The same people that are working there, I 10 do believe we added as a employee, an additional 11 person, Dr. Austin Mircheff because I don't think -- 12 I don't -- you'd have to remind me. I believe he 13 joined as an employee, before he was just a 14 contractor to us, after August of 2021. 15 Q. What was his last name, or what is his 16 last name? 17 A. Mircheff, M-i-r-c-h-e-f-f. And I hope I'm 18 pronouncing that correctly. He's Macedonian. 19 Q. What type of work does he do for your 20 business? 21 A. So he has a Ph.D. in cellular physiology, 22 and he does several things, depending on the need. 23 He will sometimes do research on topics related to 24 some of our clients in the regulatory space as far 25 as underlying mechanisms that could help support</p>
<p style="text-align: right;">Page 19</p> <p>1 A. No. I -- I believe I did make a few 2 typo-type corrections of misspellings to the 3 transcript and submitted those. But, no, there was 4 nothing that I -- with that in mind, as long as 5 those changes were made, there's nothing else I 6 would point to. 7 Q. Has there been any change in your 8 employment status since August of 2021? 9 A. No. 10 Q. Any change in your business or its 11 activity since August of 2021? 12 A. So I need you to be clear what you mean by 13 "any changes." I obviously have different clients 14 at all different periods of time. 15 But what are you asking? 16 Q. Sure. Let me ask and be more specific. 17 Has there been any change in the type 18 of business that you do or the type of business 19 activities that you do since August of 2021? 20 A. In general terms, no. 21 Q. Are you still working full-time? 22 A. Yes, I am. 23 Q. Has there been any changes in the number 24 of hours that you work on a weekly basis since 25 August of 2021?</p>	<p style="text-align: right;">Page 21</p> <p>1 safety assessments for some of the product 2 assessments that I do in my practice and we do 3 as collectively as a company in our practice. 4 He also does do some article 5 retrievals from -- he has privileges at the 6 University of Southern California. He is a retired 7 professor. So he can sometimes get articles that we 8 can't get other places through his privileges at the 9 university library system. 10 Q. Does he do any type of litigation work 11 through your business? 12 A. No. He works strictly either in our 13 intellectual property part of the practice, due 14 diligence with investors, or he works in the 15 regulatory part of the practice. 16 Q. Did anyone at your business or otherwise 17 assist you with any amendments that you made to your 18 last MDL report as reflected in your November 15th, 19 2023, second amended report? 20 A. Other than article retrieval, no. 21 Q. What percentage of your business this 22 year, that is in 2023, have you spent on litigation 23 matters? 24 A. It's probably a little more than in 2021 25 because some of the work has come back. The courts</p>

<p style="text-align: right;">Page 22</p> <p>1 have opened back up. So I'd say probably about 2 30 percent of my time again, just like it used to 3 be, at least in 2023.</p> <p>4 Q. Same question as to 2022: What percentage 5 of your work in 2022 was spent on litigation 6 matters?</p> <p>7 A. Less. Some -- I can't give you the exact 8 percentage, but it was less. 2023 is back to where 9 it was before COVID for me, before the shutdown in 10 2020.</p> <p>11 Q. What is the dollar figure of revenue 12 received by your company for the year of 2022?</p> <p>13 A. I don't have an exact figure for you. It 14 was less than a million dollars, but I don't have an 15 exact figure.</p> <p>16 Q. Are you able to estimate what your 17 expected revenue is of your business for 2023?</p> <p>18 A. It's about the same.</p> <p>19 Q. When you say "about the same," the same as 20 what?</p> <p>21 A. I'm sorry. It was -- it's less than a 22 million dollars. I mean, I can't give you an exact 23 number, but it's somewhere between 800,000 and a 24 million dollars for the -- the revenues for the 25 company.</p>	<p style="text-align: right;">Page 24</p> <p>1 There are hours I don't bill, so I don't charge all 2 the time for looking at -- doing a lit search. If 3 it only takes me 30 or 40 minutes, I may not charge 4 for that.</p> <p>5 Q. As far as your consulting outside of 6 litigation, are you currently consulting as to any 7 cosmetic?</p> <p>8 A. Currently right now, no. I have some work 9 for ingredients that may be used in cosmetics, but 10 they're also used in over-the-counter drugs. And 11 the issue I'm addressing is an over-the-counter drug 12 issue, not a -- as regulation as an OTC versus as a 13 cosmetic.</p> <p>14 Q. What is it scientifically or medically in 15 terms of the issue you're addressing for that over- 16 the-counter ingredient in a drug?</p> <p>17 A. I'm looking -- okay. 18 (Speaking simultaneously.)</p> <p>19 A. Sorry. Go ahead. I didn't mean to talk 20 over you.</p> <p>21 Q. Yeah, let me restate the question. 22 What scientific or medical issue or 23 otherwise are you looking at with regard to the 24 ingredient in that over-the-counter product? 25 A. Doing a safety assessment for an</p>
<p style="text-align: right;">Page 23</p> <p>1 Q. With regard to the 30 percent of your time 2 spent on litigation matters in 2023, what percentage 3 of that time was spent on talc litigation?</p> <p>4 A. I can't tell you. It's not been -- 5 it's -- you have the bills. I don't recall the 6 time, how many hours, but it's not been a major 7 driver other than preparing this report. I took 8 some -- a little bit of time. I haven't had any 9 trials or -- the only deposition, I think, in talc 10 in 2023, was the Mississippi AG case.</p> <p>11 Q. Did you spend any hours on talc cases in 12 2022?</p> <p>13 A. Not at trial or deposition that I recall, 14 no. I would have done some work in 2022 keeping up 15 with the literature over time, some small amounts. 16 But it was not a major part of my practice in 2022 17 either.</p> <p>18 Q. You mentioned the bills or the invoices of 19 your talcum powder work, which we'll mark as 20 exhibits.</p> <p>21 Does that reflect the hours you spent 22 since 2021, except for today, on talcum powder 23 cases? That is, do they reflect the hours you've 24 spent since 2021 on talcum powder cases? 25 A. They reflect the hours I billed, yes.</p>	<p style="text-align: right;">Page 25</p> <p>1 ingredient.</p> <p>2 Q. When you say "safety assessment," is that 3 the same thing that you have done in -- in the -- 4 for purposes of your report in the MDL?</p> <p>5 A. It's not in the context of litigation. 6 But, yeah, same basic methods I would be using, 7 that's correct. Yeah, looking at scientific 8 literature, routes of exposure. The same kinds of 9 things would go into it, but this is not a 10 litigation project. It's a regulatory project.</p> <p>11 Q. As far as your vernacular or terminology, 12 is "risk assessment" the same as a "safety 13 assessment"?</p> <p>14 A. No, they're not. They're different.</p> <p>15 Q. How are they different?</p> <p>16 A. So it depends on the context of -- of what 17 you're -- what kind of product that you're doing 18 them for.</p> <p>19 So, for example, if I'm doing a -- I'm 20 doing an assessment of risk, okay? Not a risk 21 assessment, an assessment of risk. Risk goes into 22 safety assessment, and also into risk safety 23 assessment. If I'm doing that kind of assessment 24 for a food -- or an ingredient to be used in food, 25 there -- it's all about safety.</p>

<p style="text-align: right;">Page 26</p> <p>1 So in other words, it's -- it's about 2 the risk. There's no weighing benefits. So when I 3 do an over-the-counter drug product or I do a drug 4 and I'm doing a risk assessment, I'm looking at 5 risks and benefits. 6 It's just like cosmetics. It's a 7 safety assessment using the tool of risk assessment, 8 but it -- there's no such thing as benefit. It's 9 all about the risk. 10 Does that explain it for you? 11 Q. Yes. Thank you. 12 Are you able -- able to estimate the 13 percentage of times since August of 2021 through 14 today that you spent consulting outside of 15 litigation on cosmetic or an ingredient you know 16 that is going into a cosmetic? 17 A. I certainly couldn't give you a 18 percentage, no. In 2022, there were a couple of 19 projects I worked on that dealt with ingredients 20 used in cosmetics, but I can't give you a time right 21 now. 22 Q. How about 2023? Have you worked on any 23 projects dealing with any cosmetics or an ingredient 24 that you know is going into a cosmetic? 25 A. So the project that I'm describing for</p>	<p style="text-align: right;">Page 28</p> <p>1 product since the summer of 2021? 2 A. I've given advice to clients on drafting 3 of labels, yes, for consumer products since then. 4 And told them, you know, what would be required 5 in terms of what the labeling would be. It's for a 6 couple of different clients, the ingredients that 7 could have use in dietary supplement products. 8 Q. Are you able to disclose what those 9 ingredients are or what the over the -- what the 10 consumer product is? 11 A. Again, I have -- all my regulatory work, I 12 sign NDAs. So I can tell you generally that they 13 are ingredients to be used in foods that are being 14 made by new technologies as either alternative 15 proteins in the food supply or as cell-based meat 16 products. 17 Q. Since August of 2021, have you advised any 18 client to make changes to a warning statement, 19 pursuant to 21 CFR 740.1? 20 A. Since August of 2021, no, I have not. 21 Q. Have you done any consulting outside of 22 litigation since August of 2021 on any chemicals 23 that are not related to food, consumer products, or 24 cosmetics? 25 A. Yes.</p>
<p style="text-align: right;">Page 27</p> <p>1 you -- I mean, it is an ingredient found in 2 cosmetics. Although, my issue is it's going into an 3 over-the-counter drug. So if you count that 4 project, because it is something that's used in 5 cosmetics as well, it would probably be maybe -- 6 I've spent -- maybe have spent 40 or 50 hours on 7 that project. And it's something that just came up 8 about three months ago, so it's -- wasn't all year. 9 Q. Is there anything confidential about the 10 ingredient? 11 A. Yes, I have signed an NDA with the client, 12 so yes. 13 Q. Is that the only project that you spent 14 time on this year that concerned an ingredient that 15 may go into a cosmetic? 16 A. This year, that's what I can recall. That 17 it -- but I will say, there are a number of 18 ingredients that I've looked at in the food space 19 that also have some use in cosmetic products as 20 well. Many ingredients have multiple uses depending 21 on, you know, what they are. Different 22 preservatives, for example, and things like that. 23 But as a focus of my work, it would be that -- that 24 project that I just spoke to. 25 Q. Have you drafted any labels for a consumer</p>	<p style="text-align: right;">Page 29</p> <p>1 Q. Are you able to -- what are you able to 2 identify, based on your consulting arrangements, as 3 far as those chemicals? 4 A. I can tell you that they're ingredients, 5 either inerts or actives, for use in pesticides or 6 biocides. 7 Q. Are you able to describe generally what 8 type of work you've done with regard to those 9 materials? 10 A. Yes, I can tell you generally. 11 Q. What can you tell me generally? 12 A. So my issue has been looking at new 13 toxicology -- helping to design toxicology studies 14 to address questions that have been raised by 15 regulators about the safety of an active ingredient 16 to be used in a pesticide product. 17 And then doing a safety assessment 18 under the auspices -- or the regulatory framework of 19 FIFRA for inert ingredients to be used in several 20 biochemical pesticide products. 21 Q. What kind of toxicology study are you 22 talking about? 23 A. We've designed toxicology studies that are 24 whole animal reproductive developmental studies I've 25 helped design recently. I've also designed in vitro</p>

<p style="text-align: right;">Page 30</p> <p>1 studies to look at the mechanism of cancer 2 development due to inflammatory process in the 3 stomach. 4 Q. Are you talking about an inflammatory 5 process in the stomach from the ingredient of the 6 pesticide itself? 7 A. From the active ingredient, yes, exactly. 8 Q. What route of exposure would lead to in -- 9 are you talking about -- let me start over. 10 Are you talking about ingestion of the 11 material? 12 A. Yes, oral -- oral exposure. That's 13 correct. 14 Q. Are you able to identify the companies 15 that you're working for? 16 A. Again, I have NDAs. I can tell you that 17 the product is used -- I can tell you generally what 18 the product is used for. But generally, the product 19 is being used to control fungal development on 20 spices and nuts. 21 Q. Are you able to identify the name of the 22 pesticide? 23 A. I'm trying to think if anything is public 24 that I've done. I -- yeah, I've done some public 25 testimony or public things. I've worked for years</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Are you able to identify the industrial 2 chemicals? 3 A. No. Again, having -- I -- all of my work 4 has been under an NDA. It's nonlitigation but is 5 under an NDA. 6 Q. Are you able to identify the -- any of the 7 safety concerns, if any, that you're looking at for 8 those industrial chemicals? 9 A. I can tell you generally. 10 Q. Okay. Thank you. 11 A. Generally, we'd be looking at the 12 potential for a dermal exposure and what -- and 13 I'm -- my issues relate to pharmacokinetics, which 14 is one of my expertise, in looking at pathways of 15 dermal exposure and whether or not the chemicals are 16 ones that would potentially cross the skin at a high 17 enough dose in order to elicit an adverse effect. 18 Q. Have you consulted outside of litigation 19 with regard to any talcum powder product since 20 August 2021? 21 A. No. 22 Q. Since August of 2021, have you done any 23 consulting work outside of litigation with regard to 24 any type of heavy metal? 25 A. Yes.</p>
<p style="text-align: right;">Page 31</p> <p>1 on this project. It's propylene oxide. 2 Q. Have you done any other consulting work 3 with regard to a chemical that's not a food additive 4 or an ingredient to an over-the-counter or cosmetic 5 since summer of -- since August of 2021? 6 A. Could you repeat that? I thought I 7 just -- 8 Q. Have you done any other -- have you done 9 any other work with a chemical since August of 2021 10 besides what you just discussed? 11 A. Well, yes. I've done some other 12 consulting related to industrial chemicals, things 13 that are workplace exposures -- or potential for 14 workplace exposures. I've done some consulting 15 related to drugs that are being developed as -- 16 and -- and they -- that work was on active 17 ingredients. 18 Q. We're just strictly limiting my question 19 to chemicals that are not related to a cosmetic or a 20 drug or a food additive. 21 Anything besides what you've already 22 provided to us since August of 2021? 23 A. It would -- it would be some of the work 24 I've done with some of the industrial chemicals 25 related to workplace safety.</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. What type of heavy metal, if you can 2 identify it? 3 A. Heavy metals that are typically screened 4 for for use in food. 5 Q. Are you able to -- 6 A. Well, heavily screened for and not allowed 7 for use in food -- to be found in food. 8 Q. Are you able to identify the types of 9 heavy metals that you've worked on since 10 August 2021? 11 A. Yes. 12 Q. What are they? 13 A. Lead, mercury, cadmium, and arsenic. 14 Q. Since August of 2021, have you done any 15 consulting work outside of litigation with regard to 16 any fragrance? 17 A. I don't believe so, no. 18 Q. Since August of 2021, have you done any 19 consulting work outside of litigation with regard to 20 any type of asbestos? 21 A. No. 22 Q. Other than the safety assessment that you 23 talked about earlier, have you conducted any other 24 safety assessments or risk assessments on any 25 product since August of 2021 outside of litigation?</p>

<p style="text-align: right;">Page 34</p> <p>1 A. Well, everything in my regulatory practice</p> <p>2 deals -- has dealt with safety assessment in some</p> <p>3 way. So I think I've covered the general topics for</p> <p>4 you already, the types of products that we look at</p> <p>5 in our practice.</p> <p>6 But that's why they -- clients have</p> <p>7 come to us, two reasons. Either they're looking at</p> <p>8 regulatory strategies for emerging technologies with</p> <p>9 new ways to look at safety, as well as regulatory</p> <p>10 approval pathways. Or new ways to test products in</p> <p>11 order to prove that things are safe to eat, for</p> <p>12 example, or safe for human exposure.</p> <p>13 Q. Have you done any consulting work for the</p> <p>14 American Chemistry Council since the summer of 2021?</p> <p>15 A. 2021, no, I have not.</p> <p>16 Q. Have you done any consulting work for any</p> <p>17 trade group or manufacturing group since August</p> <p>18 of 2021?</p> <p>19 A. Yes.</p> <p>20 Q. Are you able to identify those trade or</p> <p>21 manufacturing groups?</p> <p>22 A. I can't give you the exact -- I -- through</p> <p>23 the NDAs. I can tell you they're in the -- their</p> <p>24 trade groups are related to products in the food</p> <p>25 space.</p>	<p style="text-align: right;">Page 36</p> <p>1 up to June or -- of 2022 or so, middle of 2022.</p> <p>2 Since then, I've gone to contract work only with</p> <p>3 that -- with the law firm.</p> <p>4 Q. Has that increased or decreased the</p> <p>5 approximate 50,000 a year you were making prior to</p> <p>6 the contract agreement?</p> <p>7 A. It's decreased it because I don't -- I'm</p> <p>8 not on call with them for -- all the time. But I</p> <p>9 do -- still do projects with them. And then in</p> <p>10 addition to that, in my -- in my company, BioPolicy</p> <p>11 Solutions, we work on patent issues but not</p> <p>12 necessarily drafting patent applications.</p> <p>13 We do due diligence and freedom to</p> <p>14 operate sometimes for investors and some of the</p> <p>15 small companies that are coming to us for advice.</p> <p>16 Q. Have you communicated with any regulatory</p> <p>17 agency that is public on behalf of a company or</p> <p>18 trade group since August 2021?</p> <p>19 A. Yes.</p> <p>20 Q. What communications have you done that are</p> <p>21 public with any regulatory agency on behalf of a</p> <p>22 company or a trade group since August 2021?</p> <p>23 A. So I need you to clarify. I didn't hear</p> <p>24 the word "public." So there would probably be a</p> <p>25 public listing of some of these companies having had</p>
<p style="text-align: right;">Page 35</p> <p>1 Q. With regard to the consulting work you've</p> <p>2 done, have you described that for us today?</p> <p>3 A. I've tried to, yes. I think so.</p> <p>4 Q. In other words, have we covered generally</p> <p>5 the type of work you've done that would have been</p> <p>6 for the trade or manufacturing groups?</p> <p>7 A. I think so. To clarify for you, the work</p> <p>8 that I've done for trade groups has usually been in</p> <p>9 conjunction with companies that are regulated. So</p> <p>10 it's a -- kind of a cooperative work, looking, you</p> <p>11 know, interacting with the trade organization as</p> <p>12 well as the individual companies at the same time.</p> <p>13 Q. Since August 2021, have you been doing the</p> <p>14 patent work that you had previously discussed with</p> <p>15 us?</p> <p>16 A. Yes, I still do that as well.</p> <p>17 Q. For the same law firm, Licata & Tyrrell?</p> <p>18 A. Yes, I work with them still. I now,</p> <p>19 though, do it on a contract basis versus a -- I</p> <p>20 don't take a salary like I used to.</p> <p>21 Q. You previously told us that you typically</p> <p>22 were making about 50,000 a year with regard to this</p> <p>23 patent work.</p> <p>24 Has that been true since August 2021?</p> <p>25 A. That was true -- that would have been true</p>	<p style="text-align: right;">Page 37</p> <p>1 a meeting, but the discussions were not public.</p> <p>2 So what are you asking me?</p> <p>3 Q. I'm asking you: What is it you're able to</p> <p>4 disclose as far as any communications you've had</p> <p>5 with a regulatory body or agency on behalf of a</p> <p>6 company or a trade group since August 2021?</p> <p>7 A. So I can tell you that I have had -- I</p> <p>8 have multiple -- I've had multiple interactions.</p> <p>9 And I would say in the last two years since that</p> <p>10 or -- well, I guess it hasn't been -- yeah, it has</p> <p>11 over two years now -- routine interactions with my</p> <p>12 clients in the emerging technology space with the</p> <p>13 Food and Drug Administration, as well as with the</p> <p>14 Singapore Food Agency, as well as at least one</p> <p>15 interaction with the European Food Safety</p> <p>16 Administration, and also Health Canada.</p> <p>17 Q. Have you submitted any testimony or</p> <p>18 provided any testimony to any regulatory group or</p> <p>19 body since August 2021?</p> <p>20 A. Not testimony submitted, no. I have had</p> <p>21 discussions, interactions, submitted documents,</p> <p>22 represented my clients, act as -- as an agent for a</p> <p>23 client to submit a GRAS notice, for example, to the</p> <p>24 FDA.</p> <p>25 Q. With regard to your consulting work,</p>

<p style="text-align: right;">Page 38</p> <p>1 you've provided to us as part of the -- a part of 2 your second amended MDL report, a list of your 3 testimony. 4 Do you recall preparing that list? 5 A. Yes. 6 Q. I'm going to share my screen with you 7 and show you that list. (Shared screen.) 8 Just let me know if you can see the 9 document I'm showing you on the screen? 10 A. (Examined exhibit.) I see it, yes. 11 It's -- I don't -- it's -- I see part of it. It -- 12 you'll have to scroll if you want to ask me about a 13 specific page, but yes. 14 Q. Understood. 15 MR. HEGARTY: I'm gonna mark as 16 Exhibit Number 1 this "List of Testimony for 17 Dr. Laura Plunkett" that was provided to us 18 yesterday. 19 (Exhibit 1 marked.) 20 BY MR. HEGARTY: 21 Q. I'm gonna scroll down to the testimony 22 listed starting with the Guilbault and Plaisance 23 versus 505(b)(2) defendants' deposition in 2021. 24 Do you see that entry, Dr. Plunkett? 25 A. I do, yes.</p>	<p style="text-align: right;">Page 40</p> <p>1 my second amended report. But it's regulated as a 2 prescription drug, so it's a different regulatory 3 oversight issue. 4 And it is not -- it did not deal -- it 5 does -- it deals with the active ingredient, not 6 with talc or asbestos or heavy metals or fibers, 7 none of that. And it is not a cancer issue. I'm 8 dealing with -- the safety issue has to do with 9 permanent hair loss in women being treated for 10 adjuvant care for breast cancer. 11 Q. Next case, Kahn versus Sanofi Aventis. 12 That was trial testimony. Where was that testimony? 13 A. So that is the -- also in New Orleans. 14 This litigation for Taxotere, it has involved both 15 the 505(b)(2) and Sanofi, who is the original NDA 16 holder. 17 Q. The next case listed is State of 18 New Mexico versus Bristol-Myers Squibb. 19 Where is that case pending, if you 20 know? 21 A. So that one has been settled, as far as I 22 know. It was in New Mexico. I was working on 23 behalf of the State AG, and it's my understanding a 24 settlement was reached. 25 Q. Did that case involve a product or</p>
<p style="text-align: right;">Page 39</p> <p>1 Q. First of all, before I ask you about that 2 case, does this document represent all of your 3 testimony for the last four years through today? 4 A. Yes. It's actually five -- I always -- 5 for some reason I give you five years. But, yes, it 6 does. 7 Q. As to the Guilbault case, who were you 8 testifying for in that case? 9 A. I was testifying on behalf of the 10 plaintiffs, the injured parties. 11 Q. Where was that -- let me start over again. 12 Do you know where that case was filed? 13 A. It's in -- it's in New Orleans. I assume 14 federal court in New Orleans, yes. 15 Q. Is there a product or substance involved 16 in that case? 17 A. Yes, this is the -- the 505(b)(2) are NDA 18 holders for a generic version of Taxotere or 19 docetaxel. 20 Q. Did your testimony in that case touch on 21 any of the issues set out in your second amended MDL 22 report? 23 A. There is certainly in that -- in that 24 testimony, and I certainly did talk about 25 limitations of the FDA generally. I think that's in</p>	<p style="text-align: right;">Page 41</p> <p>1 substance? 2 A. Yes -- oh, I'm sorry. It involved the 3 drug Plavix, and it had to do with consumer fraud, 4 consumer marketing of the product, and failure to 5 disclose information to consumers. 6 Q. Were you testifying on behalf of the 7 plaintiff in that case? 8 A. On behalf of the State, that's correct. 9 Q. The next case is Moneyham -- or Mooneyham 10 versus Bactolac. 11 Where was that case pending -- or 12 where is that case pending? 13 A. So I don't know where it was pending. I 14 believe it has settled, but I do -- I -- you know 15 what, I -- I'm not positive. And it involved a -- 16 it involves a improper manufacturing of a product -- 17 a dietary supplement product that injured -- caused 18 liver injury in an individual. 19 Q. You testified on behalf of the plaintiff 20 in that case? 21 A. Yes, the injured party. 22 Q. Was that an over-the-counter product? 23 A. It's a dietary supplement product. So 24 it's not a drug, but it -- it's a consumer product 25 that's sold directly consume -- to consumers.</p>

<p style="text-align: right;">Page 42</p> <p>1 Q. The next case is Earnest case. That's 2 another Taxotere case; is that correct? 3 A. Yes, that's correct. 4 Q. The next case is Valsartan -- I mean, I'm 5 sorry. Valsartan MDL, 2021. Were you testifying on 6 behalf of the plaintiff in that case? 7 A. So this is 2023? 8 Q. I'm sorry. 2023. 9 A. Yes. So, yes, there's two -- there are 10 two entries together. So there was a continuation 11 of the deposition. It didn't finish in January. We 12 had to carry over. But, yes, I was working -- I'm 13 working there on behalf of the injured parties and 14 the MDL. 15 Q. That involved the product valsartan? 16 A. Yes, the drug valsartan, yes. 17 Q. The next case on this list, 2023 again, is 18 the Earnest case, another Taxotere deposition; is 19 that correct? 20 A. It's the same -- it's a continuation. 21 There was an Earnest deposition before, I believe, 22 so we continued it. 23 Q. (Scrolling.) 24 A. There you go, yes. 25 Q. The next case listed is Norwood versus</p>	<p style="text-align: right;">Page 44</p> <p>1 already in October, I guess. There it is down -- 2 just down below. So those -- we're waiting -- it's 3 a bench trial, so we're waiting on the judge's 4 decision. And I was working on behalf of the State 5 of Hawaii. Again, this is Plavix and a consumer 6 fraud issue in Hawaii. 7 Q. Was that in state court in Hawaii? 8 A. Yes. It's -- yeah, it's in state court. 9 That's correct. 10 Q. The next case -- case is Blakely, et al., 11 versus LifeCell, a deposition back in October 2023. 12 Where is that case pending, if you know? 13 A. I don't know where that is pending, to 14 tell you the truth. Sorry. 15 Q. Does that case involve a product or a 16 substance? 17 A. It involves a medical device. 18 Q. What medical device? 19 A. I believe this is one of the -- you know 20 what, I believe this is -- one of the mesh cases. 21 Yes, it is. It's a -- it's a hernia mesh case. 22 Q. Are you testifying on behalf of the 23 plaintiff in that case? 24 A. Yes, another injured party. 25 Q. The last case is the Mississippi AG case,</p>
<p style="text-align: right;">Page 43</p> <p>1 Albertson's, Inc. Do you know where that case is 2 pending? 3 A. Yes. It's pending in Lake Charles, 4 Louisiana. It's supposed to go to trial next year, 5 and I'm working on behalf of an injured party where 6 there was improper filling of a prescription related 7 to a drug and led to an overdose. 8 Q. What drug did that involve? 9 A. Levaquin, levofloxacin, a fluoroquinolone 10 drug. 11 Q. The next case listed is Jackson versus 12 Bayer HealthCare Pharmaceuticals, Inc. Where is 13 that case pending? 14 A. It's in Florida in federal court. 15 Q. What substance or product is involved in 16 that matter? 17 A. So it involves multiple fluoroquinolone 18 drugs, both ciprofloxacin and levofloxacin. 19 Q. Are you testifying on behalf of the 20 plaintiff in that case? 21 A. Yes, the gentleman who was injured. 22 Q. Next case is State of Hawaii versus 23 Bristol-Myers Squibb listing a deposition in 24 August 2023. Where is that case pending? 25 A. So that case has -- the trial happened</p>	<p style="text-align: right;">Page 45</p> <p>1 which we've mentioned already. 2 Do you -- have you -- do have any 3 other depositions that you've given, or have you 4 given any other testimony since October 24, 2023, 5 besides today? 6 A. No, this is my first deposition since 7 then. 8 Q. Have there been any cases where you have 9 been identified, that is disclosed as an expert 10 witness, since August of 2021 where you've not 11 testified or been deposed? 12 A. That you've not already gone through on 13 this list? 14 Q. Yes. You should be -- 15 A. Oh, I guess -- no, I have been deposed -- 16 I'm sorry. 17 Q. These would be cases where you've been 18 disclosed or identified as an expert since August 19 of 2021. 20 But you've not been deposed or 21 otherwise given testimony in any of those cases? 22 A. Okay. So the reason I ask that 23 question -- and I realize I wasn't clear. On some 24 of these cases that you've just gone over, there's 25 multiple cases in the litigation. And I don't know</p>

<p style="text-align: right;">Page 46</p> <p>1 all the names of the cases, but I'm sure there's 2 some others that I've been disclosed for other 3 cases, for example, in the -- with -- against 4 LifeCell for the hernia mesh product. 5 As far as different products, I have 6 been disclosed publicly in the -- against the same 7 manufacturer for different cases. So LifeCell for 8 multiple because I have a couple of depositions that 9 are coming up. 10 Q. Any other cases where you've been 11 identified since August of 2021 where you've not 12 been deposed or testified besides what you've told 13 us already? 14 A. I don't know if I -- I have some other 15 things I've been working on, but I don't know. I 16 can't tell you that I've been identified publicly, 17 so I would say I can't answer that at this point. 18 Q. Other than the depositions you just said 19 you have coming up, do you have any other 20 depositions scheduled in 2023 or 2024? 21 A. I am sure I will, but right now, the only 22 other things I have scheduled is I have -- as I 23 mentioned, I know that there's a trial coming up in 24 the Norwood case. And I believe there's some trials 25 coming up in talc.</p>	<p style="text-align: right;">Page 48</p> <p>1 A. (Examined exhibit.) I can. 2 MR. HEGARTY: And I'll mark this CV as 3 Exhibit Number 2 for today's deposition. 4 (Exhibit 2 marked.) 5 BY MR. HEGARTY: 6 Q. (Scrolling.) This is the CV we were 7 provided last night. 8 Is this a current copy of your 9 curriculum vitae? 10 A. It is. 11 Q. Since August of 2021, have you developed 12 any new area of expertise? 13 A. I don't know quite how to answer that. I 14 had done research in some new areas, but I don't 15 know that -- I mean, my expertise remains the same 16 in terms of pharmacology, toxicology, 17 pharmacokinetics, regulation of products by the Food 18 and Drug Administration, regulation of food. 19 What are you asking, I guess? 20 Q. Well, have you developed any expertise 21 that is new to you, outside of studying a particular 22 product, that you did not have as of August 2021? 23 A. No, I don't think I have -- have done 24 any -- I have -- for example, I haven't -- I haven't 25 taken any courses that introduce me to a new topic</p>
<p style="text-align: right;">Page 47</p> <p>1 Q. Have you attended any meetings of any 2 professional organizations in 2023? 3 A. Yes. 4 Q. What professional organizations' meetings 5 have you attended in 2023? 6 A. The Society of Toxicology black -- back in 7 March of 2023. That should be in my new CV that I 8 believe I had that -- a poster or something there. 9 I need to look. 10 And then I've attended the -- a 11 cultured meat symposium about two months ago. I 12 went to SynBioBeta which is a meeting -- a 13 scientific meeting related to alternative proteins. 14 And I've attended -- I attended via 15 Zoom to a couple of sessions at the American 16 Association of Scientists, AAS, last spring. 17 Q. Have you presented at any professional 18 organization meetings since August of 2021? 19 A. Everything I've done would be listed in my 20 CV. So it would be best to go to there if you want 21 to find those to so -- to get a complete list. 22 Q. We'll go ahead and look at your CV. I'll 23 share my screen with you. (Shared screen.) 24 Please let me know if you can see the 25 CV shown on your screen.</p>	<p style="text-align: right;">Page 49</p> <p>1 generally that I haven't already covered before. I 2 haven't gotten any new certifications, those kinds 3 of things. 4 Q. That was gonna be my next more specific 5 question. 6 Do you have any certifications or 7 titles today that you didn't have back in August 8 2021? 9 A. No, I do not. 10 Q. Have you gone -- undergone any formal 11 training in any subject area since August 2021? 12 A. If by "formal training" you include 13 webinars that I have -- that I do in order to 14 maintain my toxicological certification, yes, I 15 have. I'm required to undertake educational courses 16 through the scientific meeting, the annual meeting, 17 and/or online in order to maintain my D.A.B.T. and I 18 have done that every year. 19 Q. Do you currently have any -- any 20 publications in the works, that is, planned 21 publications? 22 A. Yes. 23 Q. What planned publications do you have in 24 the works that would go under the section in your -- 25 in your CV we're looking at called publications?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. Yes, my peer-reviewed articles. I have a</p> <p>2 paper that my business partner and I are writing</p> <p>3 right now we plan to submit, I think, to Nature Food</p> <p>4 on the intersection of regulation, policy, and</p> <p>5 science for emerging technologies.</p> <p>6 Q. Do you currently have plans as far as what</p> <p>7 publication you're gonna submit that to?</p> <p>8 A. I said we were -- we're -- we would like</p> <p>9 to get it into the journal Nature Food.</p> <p>10 Q. I'm sorry. I misheard that.</p> <p>11 When do you plan on submitting that</p> <p>12 publication?</p> <p>13 A. Well, it -- I'm trying to light a fire</p> <p>14 under my business partner. We have to get it</p> <p>15 submitted by February.</p> <p>16 Q. Do you have any other publications in the</p> <p>17 works?</p> <p>18 A. That's the only one that's in the works</p> <p>19 right now.</p> <p>20 Q. Do you have any presentations that you</p> <p>21 know you're going to give in 2004 --</p> <p>22 A. Yes.</p> <p>23 Q. -- that are already scheduled?</p> <p>24 A. Yes.</p> <p>25 Q. What presentations do you have scheduled</p>	<p style="text-align: right;">Page 52</p> <p>1 on -- in samples taken in autopsy.</p> <p>2 Q. Your CV lists three abstracts that are</p> <p>3 2021 through today.</p> <p>4 With regard to the first abstract,</p> <p>5 lead author Woodall, what did that abstract concern?</p> <p>6 A. So George Woodall is -- all of these</p> <p>7 individuals that are listed here where I'm listed</p> <p>8 with, we're all been former members of the risk</p> <p>9 assessment, specialty section executive committee.</p> <p>10 I was president several years ago, and</p> <p>11 we put together a training course called the Risk</p> <p>12 Assessment Syllabus. And so this -- at the annual</p> <p>13 meeting, we were -- put together a presentation to</p> <p>14 outline the topics we've covered, what topics we've</p> <p>15 planned to cover, and described sort of the -- our</p> <p>16 experience based upon the information we've gained</p> <p>17 from the trainees.</p> <p>18 We -- these webinars are trying to</p> <p>19 provide additional scientific expertise to graduate</p> <p>20 students and post-docs in the area of risk</p> <p>21 assessment.</p> <p>22 Q. And do you have a copy of the abstract?</p> <p>23 A. I probably do, yes.</p> <p>24 Q. Did you prepare any type of PowerPoint or</p> <p>25 other formal presentation in connection with that</p>
<p style="text-align: right;">Page 51</p> <p>1 for 2024?</p> <p>2 A. I have two scheduled at the Society of the</p> <p>3 Toxicology meeting in Salt Lake City in March.</p> <p>4 Q. What are those two presentations?</p> <p>5 A. I'm speaking to two different topics. One</p> <p>6 I'm speaking to -- there's a workshop where I'm</p> <p>7 moderating and speaking on disparities in ethnicity</p> <p>8 and gender in the -- in science. And I'm speaking</p> <p>9 to my experience as a woman in science and in</p> <p>10 toxicology on some of the challenges in the area of</p> <p>11 professional development.</p> <p>12 And we also have speak -- we have a</p> <p>13 Native American, a woman speaking. We have a</p> <p>14 consumer advocate that's speaking. We have a person</p> <p>15 who deals with research in the area of consumer</p> <p>16 perception.</p> <p>17 And then I have a second symposium I'm</p> <p>18 speaking at. And that one, I'm talking about my</p> <p>19 work that I do in the area of forensic toxicology</p> <p>20 with drugs of abuse; and particularly cannabis and</p> <p>21 alcohol.</p> <p>22 And I'll be speaking on the</p> <p>23 pharmacokinetic challenges and the issue of</p> <p>24 correlating impairment with measured levels of</p> <p>25 different drugs. And particularly, I'm gonna focus</p>	<p style="text-align: right;">Page 53</p> <p>1 abstract?</p> <p>2 A. I'm sorry. We had a poster that we put</p> <p>3 together. I may have a copy. I'm not sure.</p> <p>4 Q. Other than the abstract and perhaps the</p> <p>5 poster, do you have any other written materials</p> <p>6 related to Abstract Number 1 in your CV?</p> <p>7 A. That would be all there would be.</p> <p>8 Q. Do the other two abstracts have something</p> <p>9 to do with cannabis?</p> <p>10 A. Yes. And now these were all before our</p> <p>11 last deposition in August of --</p> <p>12 Q. Okay.</p> <p>13 A. -- yeah. So -- but yes.</p> <p>14 Q. Good point. Your CV also lists -- and I</p> <p>15 scrolled down -- (scrolling) book chapters -- book</p> <p>16 chapters since August of 2021. Those all relate to</p> <p>17 defending pesticides in litigation, or at least --</p> <p>18 I'm sorry. 2 and 3 refer to that.</p> <p>19 With regard to that book, is that an</p> <p>20 update of the previous versions of those books -- of</p> <p>21 that book? I'm sorry.</p> <p>22 A. Yes. Every year, I try to revamp -- I</p> <p>23 have, like, ten chapters that I edit. And every</p> <p>24 year, I try to update and revamp several of them.</p> <p>25 It's a big effort, so I don't do all ten every year.</p>

<p style="text-align: right;">Page 54</p> <p>1 But yes, the 2024 version that will be coming out --</p> <p>2 it's not out yet. That's why I didn't list it --</p> <p>3 will have -- I updated that in 2023. And then for</p> <p>4 2023 version, I update that in 2022, yes.</p> <p>5 Q. Do you have one other book chapter listed</p> <p>6 here? Do you have any other book chapters in the</p> <p>7 works besides the "Defending Pesticides in</p> <p>8 Litigation" 2024 version?</p> <p>9 A. No. And the 2024 version is no longer in</p> <p>10 process. It's -- I mean, I've completed my work.</p> <p>11 It just won't come out until 2024.</p> <p>12 Q. Okay. I gotcha. Thank you.</p> <p>13 Since August of 2021, have you given</p> <p>14 any presentations to any group where talcum powder</p> <p>15 or talc was discussed?</p> <p>16 A. No.</p> <p>17 Q. Since August 2021, have you given any</p> <p>18 presentation to any group where any of the following</p> <p>19 subjects were discussed: ovarian cancer, asbestos,</p> <p>20 heavy metals, silica, or fragrances?</p> <p>21 A. Heavy metals, yes. The others, no.</p> <p>22 Q. What presentation have you given since</p> <p>23 August 2021 where heavy metals were discussed?</p> <p>24 A. So I just -- and I just realized it should</p> <p>25 have been on the CV you just put up there. I gave a</p>	<p style="text-align: right;">Page 56</p> <p>1 it was in the paper.</p> <p>2 Q. Do you recall the last name of the lead</p> <p>3 authors and the year of those two papers?</p> <p>4 A. No. I'd have to get those -- pull those</p> <p>5 back out. I don't recall.</p> <p>6 Q. Do you still have copies of them?</p> <p>7 A. Yes, I do.</p> <p>8 Q. Did you prepare any written materials for</p> <p>9 this lecture at NYU?</p> <p>10 A. PowerPoint, yes.</p> <p>11 Q. Do you still have the PowerPoint?</p> <p>12 A. Yes, I do.</p> <p>13 Q. What heavy metals did you discuss at this</p> <p>14 presentation?</p> <p>15 A. I don't know that I -- I don't think I</p> <p>16 went into the toxicology of any particular one.</p> <p>17 Again, it was a discussion in the paper about heavy</p> <p>18 metal exposure being relevant, as well as pesticide</p> <p>19 exposure for some of the injuries.</p> <p>20 It was an issue related to human</p> <p>21 exposure through -- through the environmental</p> <p>22 pathways to -- when things -- pesticides have been</p> <p>23 placed historically. So arsenical pesticides, for</p> <p>24 example, I think were mentioned. And then that's --</p> <p>25 I'm trying to remember was anything else mentioned.</p>
<p style="text-align: right;">Page 55</p> <p>1 lecture in the risk assessment course at NYU last</p> <p>2 month, I guess in November, like three weeks ago.</p> <p>3 And that should be on my CV. I apologize.</p> <p>4 And there I talked -- I had some</p> <p>5 published papers that I -- I gave a presentation.</p> <p>6 It was mainly focusing on the regulation of</p> <p>7 pesticides in the U.S. in the risk assessment</p> <p>8 course.</p> <p>9 But I had two papers, one of which --</p> <p>10 that I discussed with the students, one of which was</p> <p>11 talking about exposure and safety assessment and</p> <p>12 had had a component of it related to heavy metals as</p> <p>13 well.</p> <p>14 Q. When you say "two papers," are you talking</p> <p>15 about two published papers?</p> <p>16 A. Yes. So in this course, I'm asked to give</p> <p>17 a didactic lecture for about 20, 25 minutes. And</p> <p>18 then their -- the idea is for these grad students to</p> <p>19 teach them analytical skills in reviewing published</p> <p>20 toxicology articles or risk assessment articles.</p> <p>21 So I chose two, and those two papers I</p> <p>22 discussed with them. One of them had information</p> <p>23 about heavy metals in it as far as risk assessment</p> <p>24 and exposure of individuals and the harm that it</p> <p>25 could cause. It was not the focus of the paper, but</p>	<p style="text-align: right;">Page 57</p> <p>1 But there have been problems in the</p> <p>2 past with -- in soil that arsenic remains around and</p> <p>3 can -- if you plant a crop in a -- in a place where</p> <p>4 arsenic is in the soil, you can end up with</p> <p>5 either -- arsenic either in the plants, but you also</p> <p>6 have a groundwater contamination potential issue.</p> <p>7 We don't use these lead, arsenical</p> <p>8 pesticides anymore, but historically, they've been</p> <p>9 used worldwide. And they were used very recently in</p> <p>10 developing countries. And then that's -- I think</p> <p>11 the paper was about Pakistan.</p> <p>12 So a developing country where even</p> <p>13 though we banned those things here in the U.S.,</p> <p>14 there are still people around the world that it can</p> <p>15 be exposed to those things.</p> <p>16 Q. And since August 2021, have you discussed</p> <p>17 your opinions in talcum powder cases with any</p> <p>18 colleagues or groups that are not involved in the</p> <p>19 talcum powder litigation?</p> <p>20 A. Only my business partner. She and I may</p> <p>21 have a conversation about it generally. But it's --</p> <p>22 there's been -- she doesn't have input to my</p> <p>23 reports.</p> <p>24 Q. Since August 2021, have you communicated</p> <p>25 with anyone outside of plaintiffs' counsel and</p>

<p style="text-align: right;">Page 58</p> <p>1 perhaps your partner concerning any of the -- any of</p> <p>2 the opinions you intend to offer in this case?</p> <p>3 A. No.</p> <p>4 Q. Since August 2021, have you communicated</p> <p>5 with FDA about your opinions concerning talcum</p> <p>6 powder products?</p> <p>7 A. No, not since August of 2021.</p> <p>8 Q. Since August 2021, have you communicated</p> <p>9 with Health Canada or any other foreign regulatory</p> <p>10 authority about talcum powder?</p> <p>11 A. No, I have not.</p> <p>12 Q. Since August 2021, have you communicated</p> <p>13 with any scientific group or body regarding your</p> <p>14 opinions in this case?</p> <p>15 A. No, I have not.</p> <p>16 Q. Since August 2021, has any regulatory</p> <p>17 authority or scientific body reached out to you</p> <p>18 about your opinions with regard to talcum powder</p> <p>19 products?</p> <p>20 A. No.</p> <p>21 Q. Have you contacted any medical</p> <p>22 organization or society about your opinions in this</p> <p>23 case since August 2021?</p> <p>24 A. I have not.</p> <p>25 Q. Has FDA or any regulatory authority</p>	<p style="text-align: right;">Page 60</p> <p>1 the -- I think after that or before that?</p> <p>2 So the -- in my second amended report,</p> <p>3 I think that's why I highlighted the Canadian</p> <p>4 statements about this issue. That's what I would</p> <p>5 point to right now.</p> <p>6 Q. Since August of 2021, have you become</p> <p>7 aware of any -- a regulatory authority who was</p> <p>8 required warnings on talcum powder products with</p> <p>9 regard to ovarian cancer?</p> <p>10 A. Well, they can't do that in the U.S. So</p> <p>11 other than that, I would say that in Canada, they</p> <p>12 have -- have added information on their website</p> <p>13 about warnings about the product. So outside of</p> <p>14 Canada, that's all I would point you to.</p> <p>15 Q. Since your last MDL deposition in</p> <p>16 August 2021, have you had any interaction with EPA</p> <p>17 with regard to talcum powder?</p> <p>18 A. No, not directly with EPA. I have not.</p> <p>19 Q. Have you had any interaction since</p> <p>20 August 2021 with EPA regarding asbestos?</p> <p>21 A. No, I have not. That did not come up in</p> <p>22 my interactions.</p> <p>23 Q. Since August of 2021, have you nominated</p> <p>24 yourself or been nominated to any EPA committee?</p> <p>25 A. No, I have not.</p>
<p style="text-align: right;">Page 59</p> <p>1 reached out to you about talc or talcum powder</p> <p>2 products since August 2021?</p> <p>3 A. No, they have not.</p> <p>4 Q. Has any medical society, group, or</p> <p>5 organization reached out to you about talcum powder</p> <p>6 or ovarian cancer since August of 2021?</p> <p>7 A. No.</p> <p>8 Q. Since August of 2021, have you become</p> <p>9 aware of any scientific or medical group or medical</p> <p>10 or scientific entity or organization who has made</p> <p>11 the statement that talcum powder use can cause</p> <p>12 ovarian cancer?</p> <p>13 A. I don't know. I'd have to look at my --</p> <p>14 whether there were any exhibits or documents that</p> <p>15 came up at trials. I don't -- I don't recall. I</p> <p>16 haven't done any type of a -- of a search since</p> <p>17 August of 2021 to look for such.</p> <p>18 Q. Since August 2021, have you become aware</p> <p>19 of any regulatory authority who has stated that talc</p> <p>20 can cause ovarian cancer or increases the risk of</p> <p>21 ovarian cancer? So this would be new statements by</p> <p>22 regulatory authorities about talcum powder and</p> <p>23 ovarian cancer?</p> <p>24 A. So the Health Canada, I don't know whether</p> <p>25 that -- the Health Canada assessment came out before</p>	<p style="text-align: right;">Page 61</p> <p>1 Q. Since August of 2021, have you nominated</p> <p>2 yourself or been nominated for any other group or</p> <p>3 entity's committees?</p> <p>4 A. Yes.</p> <p>5 Q. What other group or entity's committees</p> <p>6 have you been nominated for or nominated yourself</p> <p>7 for since August of 2021?</p> <p>8 A. Yeah, so I -- I have -- I ran for</p> <p>9 specialty section executive committee in the</p> <p>10 eagle -- the ethical, legal, and forensic specialty</p> <p>11 section at SOT, and I'm on that. I have --</p> <p>12 THE COURT REPORTER: I'm sorry.</p> <p>13 Doctor, I'm sorry. I had some break up in that</p> <p>14 answer there. I want it to be clear. Do you mind</p> <p>15 repeating your answer, please.</p> <p>16 A. The -- the committee is -- I -- I ran for</p> <p>17 and was -- I'm on the executive committee for the --</p> <p>18 SOT specialty section called -- I'll just give you</p> <p>19 the acronym. It's easier. ELFSI. And I'm a</p> <p>20 counselor to that.</p> <p>21 I have been -- I have volunteered and,</p> <p>22 I believe, been nominated for a different position</p> <p>23 on that same executive committee when my term runs</p> <p>24 up this year for the VP-elect position within that</p> <p>25 different committee.</p>

<p style="text-align: right;">Page 62</p> <p>1 I was appointed to the subcommittee</p> <p>2 within the risk assessment specialty section at SOT</p> <p>3 dealing with this risk assessment webinar. That's</p> <p>4 an ongoing appointment since 2021. So most of my</p> <p>5 work on committees that I have been appointed to</p> <p>6 would be within my professional societies and mostly</p> <p>7 within the SOT.</p> <p>8 BY MR. HEGARTY:</p> <p>9 Q. Have you spoken to any expert in this</p> <p>10 case, that is the MDL litigation, regarding their</p> <p>11 disclosure or testimony in the MDL since August</p> <p>12 of 2021?</p> <p>13 A. I don't think so, no.</p> <p>14 Q. Since August 2021, have you reviewed any</p> <p>15 other expert's amended or supplemental MDL reports?</p> <p>16 A. If it's -- if I have, it would be listed</p> <p>17 in my Appendix C, so I can't know. And actually,</p> <p>18 let me say one thing. I -- in the answer to the</p> <p>19 question before.</p> <p>20 I did attend a trial after August</p> <p>21 of 2021 in the talc litigation, and I would have had</p> <p>22 conversations with any other experts that were there</p> <p>23 at the time. And I don't recall if anybody was.</p> <p>24 That's all I would say to you.</p> <p>25 It would not have been about my</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. Oh, I'm seeing a frozen screen.</p> <p>2 THE COURT REPORTER: Correct.</p> <p>3 Ted, can you hear us?</p> <p>4 MR. HEGARTY: Looks like they're all</p> <p>5 frozen.</p> <p>6 THE COURT REPORTER: Ted, he can't --</p> <p>7 yeah, he can't hear us because she's frozen.</p> <p>8 Let's just wave at Ted.</p> <p>9 Ted? Hello?</p> <p>10 MR. HEGARTY: Let's go off the record.</p> <p>11 THE COURT REPORTER: We're going off</p> <p>12 the record at 10:18 a.m.</p> <p>13 (A recess was taken from 10:18 a.m. to</p> <p>14 10:19 a.m.)</p> <p>15 THE COURT REPORTER: Back on the</p> <p>16 record at 10:19 a.m.</p> <p>17 MR. HEGARTY: So let's go back on the</p> <p>18 record.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. I believe I'd asked you at the time that</p> <p>21 your screen froze whether you have reviewed any</p> <p>22 other witness's testimony since August 2021 besides</p> <p>23 yourself for purposes -- and to be more specific --</p> <p>24 of preparing your MDL second amended report.</p> <p>25 A. Again, I -- I would say to you if I have,</p>
<p style="text-align: right;">Page 63</p> <p>1 specific testimony necessarily, but sometimes I</p> <p>2 overlap with an expert, and I would have had</p> <p>3 conversations generally with them.</p> <p>4 Q. Was that a talcum powder trial of this</p> <p>5 year?</p> <p>6 A. No. You said since August of 2021. And</p> <p>7 there was a September -- I was at a trial in</p> <p>8 September of 2021 after my MDL deposition. I want</p> <p>9 to say it was in -- I don't -- was it -- in</p> <p>10 St. Louis. It was the St. Louis trial.</p> <p>11 Q. And my question was specifically if you</p> <p>12 talked with any other MDL expert about any</p> <p>13 amendments they had made to their MDL reports since</p> <p>14 August of 2021.</p> <p>15 A. No, I would not have done that. But I</p> <p>16 don't -- again, I don't know whether these experts</p> <p>17 that overlap, I think they may be MDL experts, so I</p> <p>18 just wanted to be clear that when I'm at a trial,</p> <p>19 sometimes I might have a conversation with an expert</p> <p>20 if we overlap.</p> <p>21 Q. Since August of 2021, other than your own</p> <p>22 testimony, have you reviewed any of the testimony of</p> <p>23 any other witness in talcum powder cases? That is,</p> <p>24 reviewed for the first time?</p> <p>25 A. (Zoom frozen.)</p>	<p style="text-align: right;">Page 65</p> <p>1 it would be in Appendix C listed for you. I don't</p> <p>2 think any of those fit. I have think they're all</p> <p>3 older than August of 2021.</p> <p>4 Q. Since August 2021, have you either spoken</p> <p>5 to or done any work specific to the plaintiffs whose</p> <p>6 case is in the MDL are being worked up for potential</p> <p>7 trial?</p> <p>8 A. No, because I'm not case specific. So I</p> <p>9 don't know who those would be.</p> <p>10 Q. With regard to your second amended MDL</p> <p>11 report, were you asked to do anything different in</p> <p>12 updating that report than you had been asked to do</p> <p>13 with regard to your prior reports?</p> <p>14 A. I don't believe so, no.</p> <p>15 Q. With regard to any additional medical or</p> <p>16 scientific literature or research you did to prepare</p> <p>17 your second amended supplemental report, can you</p> <p>18 describe what you did?</p> <p>19 A. Yes. So some of the research had been --</p> <p>20 some of the articles that are added to my report, I</p> <p>21 actually had -- I may have collected before I</p> <p>22 drafted the MDL report. Some of it was collected</p> <p>23 after I began that work in the first -- right after</p> <p>24 my -- I guess the -- the first of November. I think</p> <p>25 the billing reflects that around the first of</p>

<p style="text-align: right;">Page 66</p> <p>1 November when I started.</p> <p>2 So literature searches to look for</p> <p>3 anything new related to the FDA website related to</p> <p>4 talc or cosmetic regulation, I did pull some of that</p> <p>5 into my second amended report.</p> <p>6 I also pulled in the EPA statement on</p> <p>7 asbestos at that point looking at other regulatory</p> <p>8 bodies that might have had something to say about</p> <p>9 talc or its -- or the toxic constituents, such as</p> <p>10 asbestos.</p> <p>11 And then the literature itself, I</p> <p>12 would have just done a general search on talc and</p> <p>13 looked for scientific papers that related to these</p> <p>14 issues that I -- that I cover, which it has to do</p> <p>15 with the hazard of talc or its constituents.</p> <p>16 Any studies that may additionally have</p> <p>17 been done, I pulled in an additional review article</p> <p>18 on the role of inflammation in ovarian cancer</p> <p>19 because I had a string of cites related to that. So</p> <p>20 I pulled a more recent one in.</p> <p>21 So that's mainly what I did in order</p> <p>22 to prepare the report. It -- the -- there were -- I</p> <p>23 don't think I've cited any new non -- nothing new</p> <p>24 nonpublic. There are no new -- I don't think. I</p> <p>25 think it's mainly new public sources. As a -- for</p>	<p style="text-align: right;">Page 68</p> <p>1 (Exhibit 3 marked.)</p> <p>2 BY MR. HEGARTY:</p> <p>3 Q. Generally what does this appendix</p> <p>4 represent?</p> <p>5 A. It's a listing of documents that I have</p> <p>6 reviewed in the case, some of which I have relied</p> <p>7 upon and cited specifically in my reports. Others</p> <p>8 of which I may have talked about specifically at</p> <p>9 trial but not in the MDL report, for example, over</p> <p>10 time. And different -- some of them are -- are</p> <p>11 confidential documents, you notice the Bates</p> <p>12 numbers. And then others are public documents and</p> <p>13 published literature.</p> <p>14 Q. And what did you do to prepare for today's</p> <p>15 deposition?</p> <p>16 A. So for that document, I did go and --</p> <p>17 Q. Now let me stop -- let me stop just -- let</p> <p>18 me stop you there.</p> <p>19 A. Okay.</p> <p>20 Q. The question is a little bit different.</p> <p>21 What did you do to prepare to come</p> <p>22 today to testify? What materials did you look at?</p> <p>23 What did you do to prepare?</p> <p>24 A. Okay. So I -- I read my report, and I</p> <p>25 actually highlighted what was different in the new</p>
<p style="text-align: right;">Page 67</p> <p>1 example, the press releases by J&J and the -- the</p> <p>2 testing that had been done since August of 2021 on</p> <p>3 talc products.</p> <p>4 Q. And has plaintiff counsel, in this</p> <p>5 litigation, provided you with any articles since</p> <p>6 August of 2021?</p> <p>7 A. Yes. It's possible that they have sent</p> <p>8 articles over time. Since then, I can't tell you</p> <p>9 necessarily which one -- I think the Dyer article</p> <p>10 actually was sent through plaintiffs' counsel.</p> <p>11 Q. Have you done any searching across company</p> <p>12 documents produced in this -- in this litigation</p> <p>13 since August of 2021?</p> <p>14 A. No, I have not. By myself, I have not.</p> <p>15 Q. You've provided as part of your second</p> <p>16 amended MDL report a "Materials Considered" list; is</p> <p>17 that correct?</p> <p>18 A. Yes, my -- what I call Appendix C, that's</p> <p>19 correct.</p> <p>20 Q. I want to show you that appendix. (Shared</p> <p>21 screen.) Please let me know if you can see</p> <p>22 Appendix C on your screen.</p> <p>23 A. (Examined exhibit.) Yes, I can.</p> <p>24 MR. HEGARTY: I'm gonna mark as</p> <p>25 Exhibit Number 3 this appendix.</p>	<p style="text-align: right;">Page 69</p> <p>1 report, what language. So if you wanted to talk</p> <p>2 about what's different, I can go right to it. I</p> <p>3 know what language or words are different from my</p> <p>4 August 20 -- no, I'm sorry, from my June 2021</p> <p>5 report.</p> <p>6 I did the same thing with Appendix C</p> <p>7 to make it easy to know. That's why I was able to</p> <p>8 give you a listing of exactly which documents I</p> <p>9 brought, which were the ones that would be new</p> <p>10 since 2021.</p> <p>11 I re-reviewed those ones that were new</p> <p>12 in that -- the literature articles that I already</p> <p>13 dictated to you as well. And I gathered -- then I</p> <p>14 gathered the things that were being asked for in the</p> <p>15 subpoena notice. So I got my bills together that</p> <p>16 were new, my new CV, my trial list. And then I had</p> <p>17 a short meeting yesterday with counsel.</p> <p>18 Q. But who did you meet with yesterday in</p> <p>19 that short meeting?</p> <p>20 A. Mr. Meadows mainly and Ms. Tucker. But</p> <p>21 also Mr. Tisi was here and Mr. Beattie was here.</p> <p>22 Q. How long was that meeting?</p> <p>23 A. Probably two and a half to three hours.</p> <p>24 Q. Was that the only meeting that you would</p> <p>25 characterize with plaintiffs' counsel as being in</p>

<p style="text-align: right;">Page 70</p> <p>1 preparation for today's deposition?</p> <p>2 A. Yes, and I should also say actually two</p> <p>3 other attorneys Zoomed in. I don't want to leave</p> <p>4 them out. Ms. O'Dell and Ms. Parfitt and Mr. Green</p> <p>5 were also -- joined for a part of the time. They</p> <p>6 weren't here the whole time, but they did Zoom in</p> <p>7 for an hour or so.</p> <p>8 Q. We talked earlier about the -- the</p> <p>9 invoices that were provided, and I'll share my</p> <p>10 screen with you with regard to those invoices.</p> <p>11 (Shared screen.) Please let me know if you can see</p> <p>12 the invoices shown on my screen.</p> <p>13 A. (Examined exhibit.) I do.</p> <p>14 MR. HEGARTY: I'm gonna mark the</p> <p>15 entirety of the invoices provided -- there were</p> <p>16 six -- as Exhibit Number 4.</p> <p>17 (Exhibit 4 marked.)</p> <p>18 BY MR. HEGARTY:</p> <p>19 Q. This is one invoice that is dated</p> <p>20 October 2023.</p> <p>21 And as you note in the invoice, it</p> <p>22 concerns the Mississippi AG case; is that correct?</p> <p>23 A. Yes, this was the time preparing for the</p> <p>24 deposition -- or actually, this was -- may have been</p> <p>25 the deposition. I -- you need to go down further.</p>	<p style="text-align: right;">Page 72</p> <p>1 A. (Examined exhibit.) I do, but to confirm</p> <p>2 what it is, I need to go a little further.</p> <p>3 Q. (Scrolling.)</p> <p>4 A. There. Yes, that is it. That's correct.</p> <p>5 Q. This is an update to your June 2021 MDL;</p> <p>6 is that correct?</p> <p>7 A. Yes, that's correct.</p> <p>8 Q. Have you prepared any other reports for</p> <p>9 any talc case different from your November 15, 2023,</p> <p>10 report since August of 2021?</p> <p>11 A. No.</p> <p>12 Q. Have you changed or modified any of your</p> <p>13 ultimate opinions from your June 2021 report?</p> <p>14 A. No.</p> <p>15 Q. You have testified several times that</p> <p>16 you're not providing a causation opinion in this MDL</p> <p>17 litigation.</p> <p>18 Do you recall that?</p> <p>19 A. Yes.</p> <p>20 Q. Is that still true?</p> <p>21 A. Yes.</p> <p>22 Q. Do you intend to testify, as you have in</p> <p>23 the -- in the past, that exposure to talc after</p> <p>24 genital dusting increases the risk of ovarian</p> <p>25 cancer?</p>
<p style="text-align: right;">Page 71</p> <p>1 And there may be another one. There may have been</p> <p>2 two of these.</p> <p>3 Q. As far as the invoices that were provided,</p> <p>4 they included the Mississippi AG case, two of them.</p> <p>5 One MDL invoice, an invoice for the Cadagin case, an</p> <p>6 invoice for the Giese case, an invoice for the</p> <p>7 Kleiner case.</p> <p>8 Are you aware of any other invoices</p> <p>9 that you generated and submitted in connection with</p> <p>10 your talcum powder casework since August of 2021</p> <p>11 besides those?</p> <p>12 A. No, I'm not. I -- we did a search of my</p> <p>13 billing system and pulled out anything that was --</p> <p>14 that was dated after that.</p> <p>15 Q. Have you been paid for all the amounts in</p> <p>16 those invoices?</p> <p>17 A. Yes.</p> <p>18 MR. HEGARTY: The next document I'm</p> <p>19 going to show you, which I'll mark as Exhibit</p> <p>20 Number 5, is your November 15, 2023, MDL report.</p> <p>21 (Shared screen.)</p> <p>22 (Exhibit 5 marked.)</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. Please let me know if you can see the</p> <p>25 document on my screen.</p>	<p style="text-align: right;">Page 73</p> <p>1 A. Yes, I could if asked that question. Yes.</p> <p>2 Q. Has this opinion changed or -- or been</p> <p>3 modified since August of 2021?</p> <p>4 A. Not in terms of the opinions. Certainly,</p> <p>5 there's some additional documents that I believe</p> <p>6 support that opinion. But, no, the opinion is the</p> <p>7 same.</p> <p>8 Q. We discussed at your August 2021</p> <p>9 deposition, your review of Johnson & Johnson's</p> <p>10 comprehensive review document.</p> <p>11 Do you recall that?</p> <p>12 A. No, I don't recall that. But I know that</p> <p>13 there is such a document. But I don't recall that</p> <p>14 discussion.</p> <p>15 Q. Since August of 2021, have you formed any</p> <p>16 additional opinions with regard to the Johnson &</p> <p>17 Johnson comprehensive review document?</p> <p>18 A. No, because I don't believe I've looked at</p> <p>19 it. So it's --</p> <p>20 Q. Since August of 2021 -- I'm sorry. I</p> <p>21 didn't mean to interrupt.</p> <p>22 A. I -- I don't -- yeah, it's okay. I don't</p> <p>23 believe I've looked at it since. If you've shared</p> <p>24 it with me, that'd be the last time I would have</p> <p>25 looked at it.</p>

<p style="text-align: right;">Page 74</p> <p>1 Q. Have you looked at any testimony by 2 Dr. Kuffner since August of 2021? 3 A. No, I don't believe so, unless it's in my 4 Appendix C. But I don't recall that, no. 5 Q. We also discussed at your August 2021 6 deposition the 2020 Mandarinino -- or I'm sorry, 7 Mandarinino study. 8 Do you recall that? 9 A. I do recall a study. I don't recall you 10 and I talking about it. But I do recall there is 11 such a study, yes. 12 Q. Okay. Are you able to recall -- or strike 13 that. 14 Do you have any additional opinions 15 you've developed concerning the Mandarinino study 16 since August of 2021? 17 A. No. If a -- if I had, I believe I -- if I 18 had, I would have put that into my second amended 19 report. 20 Q. We also discussed at your August 2021 21 deposition the 2019 Harper, Saed study. 22 Do you recall that? 23 A. I don't really recall a specific 24 discussion. I am aware of a -- of the 2019 Harper 25 and Saed that I -- then became a paper that I now</p>	<p style="text-align: right;">Page 76</p> <p>1 depositions or trial testimony I have given in 2 this -- in these cases. 3 So I'd say all of that, plus what is 4 in my report. But I do believe this second amended 5 report covers all the general areas that I would be 6 prepared to discuss. 7 MR. HEGARTY: If we can go off the 8 record; let's take a break, about five minutes or 9 so. 10 Does that sound all right for 11 everybody? 12 MR. MEADOWS: Yeah, that's fine with 13 me. 14 THE COURT REPORTER: All right. We're 15 off the record at 10:34 a.m. 16 (A recess was taken from 10:34 a.m. to 17 10:44 a.m.) 18 THE COURT REPORTER: We're back on the 19 record at 10:44 a.m. 20 BY MR. HEGARTY: 21 Q. Dr. Plunkett, I want to walk through the 22 amendments to your -- at least many of the 23 amendments to your second amended expert report. 24 You indicate you have that with you; 25 is that correct?</p>
<p style="text-align: right;">Page 75</p> <p>1 have discussed a little bit in my report, which is 2 Harper, et al. Saed is the final author -- 2023. 3 At least that's my understanding. 4 Q. Outside of what you have in your current 5 report, do you have any other opinions with regard 6 to the 2019 Harper, Saed study? 7 A. Unless -- unless I expressed them to -- I 8 can't think of her last name -- Jessica ... the 9 attorney who -- 10 Q. The attorney -- 11 A. Yes, who took my -- took my deposition 12 back in October. She might have asked me questions 13 about that, so I'd refer you to that deposition 14 testimony, if I said anything. But certainly, I 15 haven't added anything to my -- I think my MDL 16 report about those specific things. 17 Q. Are there any opinions you have formed 18 with regard to Johnson's Baby Powder or talcum 19 powder that you intend to testify that are not 20 contained in your November 15, 2023, second amended 21 report? 22 A. General areas, probably no, but I would -- 23 it's my understanding that you're aware that I would 24 be relying upon and point you to any of the 25 testimony I have given. In other words, any of the</p>	<p style="text-align: right;">Page 77</p> <p>1 A. Yes, I have the version. And I -- and 2 like I said, the version I have I've marked -- 3 highlighted in yellow what was different, so ... 4 Q. And I'd previously designated that second 5 amended expert report as Exhibit Number 5. 6 Would you please turn to paragraph 18 7 to start? 8 A. (Complied.) Yes, I'm there. 9 Q. You added a line at the end of that 10 paragraph that says, "This is true despite recent 11 changes to cosmetic law in 2022 (the Modernization 12 of Cosmetics Regulation Act of 2022 known as 13 MoCRA)." 14 Why did you add that reference at the 15 end of paragraph 18? 16 A. Because I wanted to update so that 17 everyone understood that I'm aware of the fact that 18 there have been changes to the law that have 19 occurred since August of 2021. And what was 20 important -- the reason I say, "This is true 21 despite," it's the issue that -- if you go and look 22 at those changes and I think I talk about this a 23 little later as well -- there's still -- it's still 24 the responsibility of the company, not the FDA, to 25 substantiate safety.</p>

<p style="text-align: right;">Page 78</p> <p>1 There is no preapproval of a cosmetic 2 and cosmetic ingredients, even with the changes in 3 the law. 4 Q. You may have just answered my next 5 question, but what comments do you have about these 6 changes that are pertinent to your opinions in this 7 case? 8 And, again, you may have just answered 9 it, but please let me know if there's anything else 10 pertinent to your opinions as it relates to these 11 amendments besides what you just told me. 12 A. I think -- what I just said is my most 13 important observation by the law. I would also 14 point out, however, unfortunately, even as of today, 15 the -- the provisions of the law, other than the 16 facility registration, have not really been mandated 17 or implemented. 18 So this is a work in progress, even 19 though it passed in 2022. And I think if you 20 look -- go to the FDA website, they've even put off 21 implementation of this law until 2025. 22 Q. Do these amendments, when enacted and put 23 in place, give FDA authority different from or in 24 addition to what it already has? 25 A. Gave them some additional authority in</p>	<p style="text-align: right;">Page 80</p> <p>1 What recent FDA statements are you 2 referring to? 3 A. So if you go to this footnote where 4 that -- it's the page where they're talking about 5 the new law, they make the very specific statement 6 that even with the changes in the law, manufacturers 7 have a duty to not only establish safety, but to 8 conduct testing that is necessary to ensure safety. 9 So that page, that web page, has that 10 very specific information, and this is no different 11 than my original report. That was my opinion. That 12 was the way it was, even before the changes to 13 the -- the law -- the regulations haven't been 14 codified -- but the changes to the law in 2022. 15 Q. Since August of 2021, have you kept 16 yourself up to date as far as what FDA has put on 17 its website concerning talcum powder products? 18 A. Yes, I have tried to do that over time. 19 Q. The FDA's website with regard to talcum 20 powder products, those comment on FDA's findings 21 with regard to the safety of talcum powder products; 22 is that correct? 23 A. You'll need to show me what you're 24 pointing to. They do talk about safety, but if you 25 have a specific statement, you'll need to point me</p>
<p style="text-align: right;">Page 79</p> <p>1 terms of what they can require but not with the 2 issue of preapproval or of safety assessment. But 3 yes, for example, they now have different recall 4 authority. That's an example. 5 Q. Please turn next to paragraph 21. 6 A. (Complied.) Okay. 7 Q. You have added in this paragraph that with 8 regard to a manufacturer's "duty to conduct whatever 9 testing necessary to ensure the safety of their 10 product and ingredients." The last line that reads, 11 "This has been confirmed in recent FDA statements as 12 well." 13 Do you see that? 14 A. I do not have that highlighted, so where 15 are you? I need to find that. I apologize. 16 Q. I'm at the end. 17 A. Ah. I -- yeah. I see it now. I'm sorry. 18 Yeah, with Footnote 14? 19 Q. Yes. And that is new to -- to your 20 report; is that correct? 21 A. Yes, because I'm referring to the issues 22 related to the new law. 23 Q. And when you say "the issues related to 24 the new -- new law" -- or let me just start over 25 again.</p>	<p style="text-align: right;">Page 81</p> <p>1 to it. 2 Q. Okay. Let me share my screen with you. 3 (Shared screen.) Please let me know if you can see 4 what I'm showing you on my screen. 5 A. (Examined screen.) I do see that, yes. 6 Q. You're familiar with this web page we're 7 looking at, which is the FDA's website on talc? 8 A. Yes. This was as of -- this was the 9 content that -- they haven't updated it since, I 10 believe, this date, which I think they list as 11 December 2022. 12 Q. Scrolling down in this part of FDA's 13 website (scrolling), it does make reference to 14 talcum powder and ovarian cancer, correct? 15 A. Somewhere I believe it does, yes. 16 Q. In particular, this website says that as 17 of December 7, 2022, "Published scientific 18 literature going back to the 1960s has suggested a 19 possible association between the use of powders 20 containing talc in the genital area and the 21 incidence of ovarian cancer. However, these studies 22 have not conclusively demonstrated such a link, or 23 if such a link existed, what risk factors might be 24 involved." 25 Do you see where I'm reading?</p>

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1 A. I have -- I see that you have read that,
 2 yes.
 3 Q. And is this -- you have seen this
 4 statement before today, right?
 5 A. Yes, I've seen this statement before. And
 6 I would point to you that the statement by FDA is
 7 consistent with my opinion when they mentioned
 8 possible association and why there should have been
 9 a warning on the product.
 10 Q. So do you agree with this statement? That
 11 is, the statement I just read?
 12 A. I don't agree or disagree with this
 13 statement. It is FDA's statement. I'm not the
 14 causation expert. Others are addressing the issues
 15 related to the strength of the evidence. But as
 16 I -- what I would use the statement for is -- I just
 17 told you. Is that it's -- when they describe it as
 18 a "possible association," that is the warning --
 19 that is the standard for adding a warning that a
 20 company is supposed to comply with.
 21 Q. Do you make a reference anywhere in your
 22 second amended MDL report to this FDA statement?
 23 A. No, although I do have in my reliance
 24 materials things found at the FDA website, which
 25 would -- this would be one of them.

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1 Q. Well, under your methodology for your
 2 opinions in this latest report, did you consider or
 3 factor into your opinions this statement?
 4 A. From the -- from the -- work that I did,
 5 yes, as I just said to you. It is confirming the
 6 issue of the fact that there's a recognition of
 7 the -- of what FDA even has stated about the
 8 relationship.
 9 And I'm saying to you it's
 10 consistent -- as I have stated, that's consistent
 11 with the FDA standard for warnings. However, I'm
 12 not a causation expert. So I think you should talk
 13 to others to discuss whether or not they believe
 14 that that is an appropriate statement based on the
 15 weight of -- their weight of the evidence from the
 16 literature.
 17 Q. You did not specifically reference in the
 18 body of your second amended MDL report this
 19 statement from FDA's website, correct?
 20 A. I already answered that for you. I did
 21 not. I said -- but I do believe my reliance
 22 materials point to the FDA website. That they
 23 even --
 24 Q. Did you -- I'm sorry. I'm sorry to
 25 interrupt.

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1 A. That's all right. That's okay. That I
 2 believe may reference this page because some of
 3 the information that links through here goes to the
 4 asbestos testing that the FDA has done.
 5 Q. You do reference specifically in the body
 6 of your report statements from Health Canada's risk
 7 assessment, correct?
 8 A. Yes, I do. From their document, I do.
 9 Q. You found that -- did you find that
 10 statements from Health Canada with regard to talcum
 11 powder and ovarian cancer were relevant to your
 12 opinions in this case?
 13 A. From the issues that I -- as I described
 14 them, yes, I think I described it in my section
 15 where I'm talking about the known hazard of talc.
 16 And so, yes, I do think it's relevant to my opinions
 17 related to the hazard that exist to human health and
 18 in the duty of a company to ensure that products are
 19 safe for consumers to be exposed to.
 20 Q. Do you agree that FDA and its finding are
 21 as relevant to your opinions as Health Canada's
 22 findings, correct?
 23 MR. MEADOWS: Objection.
 24 A. FDA's opinions were certainly part of the
 25 information that I'm aware of and I have considered

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1 in forming my hazard opinions. Yes, that is
 2 correct. And my issues related to increased risk,
 3 yes.
 4 BY MR. HEGARTY:
 5 Q. Well, do you agree that FDA's statements
 6 as it relates to talc and ovarian cancer are as
 7 relevant to your opinions as Health Canada's
 8 statements relating to talc and ovarian cancer?
 9 A. No, I wouldn't say that. Not necessarily.
 10 What Health Canada has done is provide you with a
 11 much more transparent discussion of all of the
 12 literature that they've reviewed in a systematic
 13 matter -- systematic manner to do a risk assessment
 14 and safety assessment for talc.
 15 This one statement by FDA does not
 16 provide me with anywhere near the detail or the
 17 information that Health Canada does. So they're
 18 both relevant, but I wouldn't say it's as relevant
 19 because of the difference in the methodology or the
 20 statement or the detail that I can get.
 21 Q. You do agree, though, that this statement
 22 is relevant to a risk assessment with regard to
 23 talcum powder and ovarian cancer?
 24 A. No. I would say it's relevant to
 25 understanding what FDA has stated about the hazard

<p style="text-align: right;">Page 86</p> <p>1 of the product. And that's how I am pointing you 2 to. I'm showing you that they are identifying a 3 hazard based upon the statement they have here. 4 Q. When you say you're "showing" me that, but 5 you did not show me or the court that in the body of 6 your current MDL report, correct? 7 A. I did not specifically point to this 8 statement. That is true. But I have many other 9 bases for -- for the statement I have made. 10 Did I include this one in the body of 11 my report? I did not. But it is not because it is 12 irrelevant. 13 It's just that I pointed to actual 14 data and information that provides a more detailed 15 analysis and also describe for you my method of 16 going through the information and actually looking 17 at the actual studies versus just making a summary 18 statement. 19 Q. Please turn next to paragraph 29 of your 20 report. 21 A. (Complied.) I'm there. 22 Q. You added several statements in that 23 paragraph concerning the October 2019 testing of 24 FDA -- by FDA -- by a lab hired by FDA. 25 And what followed was a recall of a</p>	<p style="text-align: right;">Page 88</p> <p>1 paragraph. 2 Q. You are not an expert in the TEM tests 3 conducted in 2019, correct? 4 A. I will not provide the expert opinions in 5 that area, that is true. I -- I know what TEM is, 6 but I'm not someone who would speak to that at 7 trial. That's correct. 8 Q. You have no personal knowledge of how 9 those tests were conducted, correct? 10 A. If by that you mean did I participate in 11 them, I did not. That is correct. 12 Q. Do you have any personal knowledge of any 13 of the methods used by the testing lab to try to 14 avoid contamination? 15 A. The only knowledge I would have is if they 16 describe it in the report, and I don't recall that. 17 So I -- but I was not there, so I wouldn't have been 18 involved with the test or have that kind of personal 19 knowledge. 20 Q. For purposes of your methodology in 21 preparing your second amended MDL report, did you 22 accept that any asbestos or talc fibers found came 23 from the bottle or bottles sampled? 24 A. Yes, I would -- I would assume because 25 that's consistent with what FDA reported. I accept</p>
<p style="text-align: right;">Page 87</p> <p>1 lot of Johnson & Johnson Baby Powder, correct? 2 A. I did add a discussion of the testing that 3 FDA had done and their description of what they 4 found, yes, at -- at the second half of the 5 paragraph on page 19, paragraph 29. 6 Q. How many bottles of Johnson's Baby Powder 7 did FDA test in connection with that finding -- or 8 have tested, I should say? 9 A. So I can only -- I'll have to reread what 10 is here. So they had two, I believe, in -- in 11 October of 2019. They did not test Johnson & 12 Johnson Baby Powder in 2020, 2021. And they also 13 did not test it in 2022. 14 And I think as I told -- I think I 15 made this comment in my -- or statement in my 16 deposition back in October that the testing in 2022 17 for sure was done at a time when FDA was aware that 18 the company had stopped distribution of the product. 19 So that may have affected what was tested. 20 Q. My question is specifically as to the 2019 21 testing. 22 Do you know how many bottles of 23 Johnson's Baby Powder were tested in 2019? 24 A. I believe there were two is what I'm 25 saying to you based upon my sentence in that</p>	<p style="text-align: right;">Page 89</p> <p>1 FDA's findings as they report them, and that is what 2 they report. 3 Q. How did the test lab define "talc fibers"? 4 A. I'd have to go and pull the study to 5 answer that kind of question. 6 Q. Do you recall if you compared the -- or 7 let me back up. 8 Did you look at the testing lab report 9 as a -- or other documents from the testing lab as 10 to how they define "talc fibers"? 11 A. I looked at what was available through the 12 FDA website. 13 Q. Do you recall if you concluded that the 14 definition that the lab applied for talc fibers was 15 the same as your definition? 16 A. I didn't attempt to -- to make a 17 comparison because that wasn't the purpose of 18 looking at this -- that wasn't the purpose of what I 19 was doing in looking at the testing. 20 Do you want me to explain? 21 Q. No, I don't need that at the -- at the 22 moment. Thank you, though, for asking. 23 Is it your methodology in this case to 24 factor into your opinions about talc used in 2018 25 and before test results from two bottles in 2019?</p>

<p style="text-align: right;">Page 90</p> <p>1 A. I don't think I understand your question. 2 Could you repeat it? 3 (Speaking simultaneously.) 4 Q. Sure. Do you consider relevant -- then -- 5 sure. Let me start over again. 6 Do you consider relevant to your 7 opinions as to any talc used before 2018 test 8 results from talc on 2019 bottles? 9 A. I consider it relevant in one aspect. 10 Would you like me to explain? 11 Q. Please. 12 A. So it's consistent with the fact that 13 the -- the records -- and this is not just -- this 14 isn't an issue of FDA testing. 15 Looking at all the records I've looked 16 at that go back in time in this case where it's 17 consistently showing -- it's consistent with the 18 showing that over time, there continue to be the 19 presence of asbestos and/or talc fibers, fibrous 20 talc, within talc: either talc powder before it was 21 processed, talc powder after it was processed, or 22 talc powder in bottles. 23 And I laid all that out and have 24 discussed that in great detail in my previous 25 testimony.</p>	<p style="text-align: right;">Page 92</p> <p>1 A. I'd have to go to the report and see what 2 they report. I don't recall. 3 Q. Do you know what type of asbestos they 4 reported finding? 5 A. I think -- same answer. I'd have to go 6 and look. 7 Q. As part of your methodology, did you 8 consider whether the volume of asbestos reported as 9 being found in these test results was sufficient to 10 cause ovarian cancer? 11 A. That's beyond the scope of what I did. 12 I'm not a causation. I wasn't doing a causation 13 opinion. 14 Q. As part of your methodology in preparing 15 your second amended report and adding this part to 16 your report, did you review the information 17 Johnson & Johnson provided with regard to its 18 testing of the contents of the same bottles? 19 A. If it was on their website or it was a 20 document that I -- was -- is something that was 21 produced to me or shown to me at trial, I have. I 22 don't recall. I do think there was information 23 at -- on their website about some of this and maybe 24 even some discussion from them. 25 I went to the -- I presented at the</p>
<p style="text-align: right;">Page 91</p> <p>1 (Speaking simultaneously.) 2 Q. What way -- I'm sorry. 3 A. Well, it's an issue -- I'm sorry. As I -- 4 the issue -- I guess the -- the short answer would 5 be the issue -- how I would say it to you is it's 6 relevant because it's not surprising to me that you 7 would have the existence of some talc with asbestos 8 or fibrous talc repeatedly over time. 9 Q. As part of your methodology, what weight 10 did you place on this 2019 test result finding? 11 A. I don't think I understand your question 12 because it's not just one finding. It's you give 13 weight to all of the evidence as it accumulates over 14 time. 15 So I have in my hazard safety 16 assessment, I gave weight to the fact that there was 17 analytical data over time consistently showing the 18 presence of toxic constituents, such as asbestos, 19 fibrous talc, and different heavy metals. 20 Q. Do you know if any MDL plaintiff used 21 Johnson's Baby Powder from the lot tested in 2019? 22 A. I have no idea of that. Again, I'm not 23 case specific, so I can't answer that. 24 Q. Do you know what volume of asbestos in 25 talc fibers were found by the testing lab in 2019?</p>	<p style="text-align: right;">Page 93</p> <p>1 public hearing that was back in -- in February 2 of 2020. And I believe that either J&J or someone 3 from the company, an expert who was speaking on 4 behalf of the company, may have talked about that. 5 But I don't recall the details. 6 Q. Let me share my screen with you. (Shared 7 screen.) 8 Did you review as part of your 9 methodology in this case and in adding this portion 10 that we're talking about to your second amended MDL 11 report, the December 3rd, 2019, statement put out by 12 Johnson & Johnson regarding the 155 tests that it 13 conducted by two different third-party labs? 14 A. (Examined exhibit.) So this looks 15 familiar. I can't tell you if it's in my reliance 16 list or not. But I -- if it -- if -- this might be 17 a document that I was shown at a trial. It looks 18 familiar. 19 Q. You indicated, though, you can't recall if 20 you include it on your reliance list? 21 A. No, I'd have to look. And you -- if it's 22 there, it's something that I have -- I independently 23 would have reviewed or relied upon. I -- again, it 24 looks very familiar. My guess is this is something 25 I have seen brought before me at trial by Ms. Brown.</p>

<p style="text-align: right;">Page 94</p> <p>1 Q. You included, as you mentioned -- as you 2 just talked about, a reference to the FDA's findings 3 as to its testing of the two bottles from the lots 4 that it -- that you reference. 5 Why did you not include the test 6 results that Johnson & Johnson provided with regard 7 to its testing of the same bottles? 8 A. Because I don't have access to their 9 reports in the same way that I do -- do when I wrote 10 this report. I -- you know, again, I -- I -- 11 this -- the whole part of this paragraph is to show 12 that there is evidence that asbestos has been found 13 in talc over time. And that's consistent with what 14 has been in my reports. 15 This section is called "Chemical 16 Components of Talcum Powder and Their Hazards." And 17 so that's what I'm doing here. I'm showing that -- 18 that indeed over time, they either have or haven't 19 detected asbestos in talc. 20 But in addition to talc and asbestos, 21 if you want to talk asbestos, there's also other 22 things that I also discuss in my report, the issue 23 of fibrous talc versus different heavy metals. And 24 that's all I'm doing in the paragraph. 25 I'm not trying to -- I'm not the</p>	<p style="text-align: right;">Page 96</p> <p>1 As part of your methodology, how have 2 you factored into your opinions about whether talc 3 over the years has contained asbestos or fibrous 4 talc testing like what is reported here showing the 5 absence of asbestos in fibrous talc in Johnson's 6 Baby Powder? 7 A. My methodology has to do with collecting 8 all of the information that I could from -- well, of 9 course, the initial work I did was well before 2019. 10 Looking at the testing that has -- was 11 accumulated in the files by the company over time 12 and looking at the description of the methodology 13 that they use, looking at the context related to the 14 limitations as FDA even describes it for the ability 15 of the testing methods to be able to detect asbestos 16 or fibers of talc. 17 This was the whole subject of that 18 meeting I participated in in February of 2020, 19 understanding that there's more than just chrysotile 20 asbestos that would be at issue based upon the 21 occurrence of fibers in the talc powder. So all of 22 that information was part of my, quote/unquote, 23 "weight of the evidence" for my hazard analysis and 24 the development of my opinions about increased risk. 25 But as you know, as I have told you --</p>
<p style="text-align: right;">Page 95</p> <p>1 person in the litigation who is providing all of the 2 opinions on -- related to detection of asbestos. 3 It's my understanding -- and I've -- I've read the 4 reports of some of those experts that will be 5 addressing these questions specifically for you. 6 Q. Have you ever made a request for the 7 testing documents from these 155 tests that are 8 discussed in this December 3rd, 2019, document? 9 A. I don't remember making a request, but I 10 also can't tell you that they're not somewhere in -- 11 in the Bates numbered documents that I have 12 reviewed. I can't answer that without looking. 13 Q. Do you, as part of your methodology, 14 accept as true the results reported of these 155 15 tests? 16 A. I don't think I've formed that opinion. 17 Q. Do you have any opinion with regard to the 18 validity or accuracy of the 155 tests referenced in 19 this December 3rd, 2019, statement? 20 A. So I've not -- I have not cited to or 21 stated such an opinion in my MDL report, and I don't 22 believe I have it in prior testimony either. So 23 that has not changed at this time. 24 Q. How have as part -- let me start over 25 again.</p>	<p style="text-align: right;">Page 97</p> <p>1 I've told you specifically, Mr. Hegarty, during 2 deposition, you know, to me, the issue is not just 3 asbestos. 4 The issue is we have a complex mixture 5 of which all of the constituents within the mixture 6 contribute, in my view, to the hazard posed to the 7 consumer. And all of those things contribute to the 8 increased risk, in my view, for ovarian cancer per 9 the opinions I have expressed. 10 Q. As part of your methodology, do you accept 11 as true all of the negative test results you have 12 seen from your document review that is negative for 13 asbestos with regard to testing of Johnson's Baby 14 Powder? 15 A. So I don't know what you mean by "true." 16 I'd say to you -- I would say the scientific way. 17 I'd say that I have -- I have looked across all the 18 studies, and I have considered all of them if I see 19 with the method some description of what was 20 actually done and whether there was any quality 21 control done. 22 So, for example, many of the older 23 test results that are within the files that I have 24 reviewed are ones where I see the laboratory that 25 did it. I see the date of the report on the</p>

<p style="text-align: right;">Page 98</p> <p>1 background, the quality, the method.</p> <p>2 So, yes, that goes into my weight of</p> <p>3 the evidence. And so I accept those as valid</p> <p>4 results in terms of being able to consider them</p> <p>5 because there is a basis scientifically for why</p> <p>6 the -- the studies were done in a manner that would</p> <p>7 make them potentially reliable enough to include</p> <p>8 within a weight of the evidence.</p> <p>9 Q. Are negative test results or test results</p> <p>10 showing no presence of asbestos in Johnson's Baby</p> <p>11 Power relevant to your methodology for your risk</p> <p>12 assessment?</p> <p>13 A. I don't know what you mean by -- with that</p> <p>14 specific question.</p> <p>15 Do you want me to try to answer it? I</p> <p>16 think I -- I would -- where you're trying to go.</p> <p>17 But that -- that -- just the way you said it doesn't</p> <p>18 quite make sense to me.</p> <p>19 Q. Sure. Do you consider test results on</p> <p>20 Johnson's Baby Powder showing no asbestos relevant</p> <p>21 to your methodology for your risk assessment?</p> <p>22 A. I would say they're relevant to my</p> <p>23 analysis. That -- that's -- I'm having a little</p> <p>24 problem with the methodology question. Methodology</p> <p>25 wouldn't just be limited to looking at positive or</p>	<p style="text-align: right;">Page 100</p> <p>1 constituents that include talc, both platy and</p> <p>2 fibrous, and as well as other things that can</p> <p>3 potentially be there on -- at any given day on any</p> <p>4 given lot.</p> <p>5 Q. Have you undertaken any methodology to</p> <p>6 determine what percentage of Johnson's Baby Powder</p> <p>7 sold over the years contain any amounts of asbestos</p> <p>8 based on the test results you cite to?</p> <p>9 A. No, I haven't done that analysis.</p> <p>10 Q. You also make reference in this paragraph</p> <p>11 to FDA testing of talcum powder products in 2020,</p> <p>12 2021, and 2022, correct?</p> <p>13 A. Well, actually it was testing that was</p> <p>14 reported, I believe, in 2021. But some of the</p> <p>15 testing may have been done in 2020, yes, and then</p> <p>16 also 2022.</p> <p>17 Q. The products tested included loose and</p> <p>18 body powders, correct?</p> <p>19 A. Yes, they included samples from the</p> <p>20 marketplace that included a variety of different</p> <p>21 talc-containing cosmetics.</p> <p>22 Q. These test results establish that talcum</p> <p>23 powder product -- that the talcum powder products</p> <p>24 tested did not contain asbestos, correct?</p> <p>25 A. Well, I need you to be more specific.</p>
<p style="text-align: right;">Page 99</p> <p>1 negative. The methodology is looking at what you</p> <p>2 can find, right? What is available.</p> <p>3 And then you -- then you weigh that</p> <p>4 information, and you analyze it based upon do you</p> <p>5 have enough information to know that the -- they</p> <p>6 were done by a -- by a method that had the ability</p> <p>7 to -- that's part of the problem with some of the</p> <p>8 older data.</p> <p>9 Did they have the ability to detect</p> <p>10 certain things or not? What was the limit of</p> <p>11 detection? What was the method of quantification?</p> <p>12 All that goes into it.</p> <p>13 But I -- to short-circuit this, that</p> <p>14 is not the focus of my testimony. There are others</p> <p>15 I know that are going to be addressing the details</p> <p>16 on the methods used and the reliability of the</p> <p>17 methods. For me, this information is relevant for</p> <p>18 my weight of the evidence on hazard and increased</p> <p>19 risk, however.</p> <p>20 Q. As part of your methodology, do you assume</p> <p>21 that all of the Johnson's Baby Powder used over the</p> <p>22 years by the plaintiffs in this litigation contained</p> <p>23 asbestos in some amount?</p> <p>24 A. I have not assumed that, no. But I have</p> <p>25 assumed that they're all a mixture of toxic</p>	<p style="text-align: right;">Page 101</p> <p>1 They didn't test body powders.</p> <p>2 But are you asking for -- by Johnson &</p> <p>3 Johnson, are you just asking me about talc in a --</p> <p>4 either a loose powder, not just a body powder form?</p> <p>5 Is that what you're asking me?</p> <p>6 Q. I'm talking about the tests themselves on</p> <p>7 the products tested.</p> <p>8 Those test results establish that the</p> <p>9 products tested did not contain asbestos, correct?</p> <p>10 A. I'd have to go look and see if they were</p> <p>11 all negative. That I can't recall without looking.</p> <p>12 I didn't go into that in my -- in this paragraph, so</p> <p>13 I'd have to go and refresh my memory.</p> <p>14 Q. As far as any test results that showed --</p> <p>15 that reported negative, those test results show that</p> <p>16 the products tested did not contain asbestos,</p> <p>17 correct?</p> <p>18 A. If the -- I would say it this way: If the</p> <p>19 test result reported states a negative, it would be</p> <p>20 based upon the method they used and the limited</p> <p>21 detection they weren't detecting it. That is</p> <p>22 correct.</p> <p>23 Q. You are aware that there were talcum</p> <p>24 powder products tested, as you reference in this</p> <p>25 paragraph, by FDA after 2020 that did not -- where</p>

<p style="text-align: right;">Page 102</p> <p>1 they did not find asbestos.</p> <p>2 You agree with that, correct?</p> <p>3 A. Yes, but I believe most of what they</p> <p>4 tested was not body powders. I believe they were</p> <p>5 testing old school compacts with pressed powder to</p> <p>6 put on the face, different things like that.</p> <p>7 Q. But as to these products, they were talcum</p> <p>8 powder products, correct?</p> <p>9 A. Well, again, some people are gonna misuse</p> <p>10 that term as body powder. So I'm telling you that</p> <p>11 they're talc-based cosmetic products and that talcum</p> <p>12 body powder product were not tested. But they</p> <p>13 were -- I'm aware that they did test talc-containing</p> <p>14 cosmetic products -- talc powder-containing cosmetic</p> <p>15 products.</p> <p>16 Q. What do you define as a "loose powder"?</p> <p>17 A. So loose powder would be -- would be a --</p> <p>18 well, loose powder, typically, would be a body</p> <p>19 powder that you shake, right, out of something. But</p> <p>20 there is also powders that can be used on the face</p> <p>21 that -- that can be applied through a brush where</p> <p>22 you go over the surface and then, you know,</p> <p>23 different -- put different products on your face or</p> <p>24 other parts of your body.</p> <p>25 (Speaking simultaneously.)</p>	<p style="text-align: right;">Page 104</p> <p>1 THE COURT REPORTER: All right. We're</p> <p>2 back on the record at 11:19 a.m.</p> <p>3 MR. MEADOWS: So, Mark, if you will,</p> <p>4 please, the documents that you're gonna put on the</p> <p>5 screen, if you could drop those in the Chat for us</p> <p>6 first so that Dr. Plunkett can have a chance to look</p> <p>7 at those in total before you start asking questions.</p> <p>8 MR. HEGARTY: Yeah. I appreciate</p> <p>9 that. One, I don't necessarily know how to do that.</p> <p>10 And, two, I know it takes some time, but -- and --</p> <p>11 and I'll do that to the extent necessary. I promise</p> <p>12 I'll let her review the documents to the extent they</p> <p>13 need to -- she needs to.</p> <p>14 BY MR. HEGARTY:</p> <p>15 Q. I'm showing you --</p> <p>16 MR. MEADOWS: I need you to figure</p> <p>17 that out because I -- I think it's important that</p> <p>18 she have an opportunity to see these documents</p> <p>19 before you start asking her questions.</p> <p>20 (Speaking simultaneously.)</p> <p>21 BY MR. HEGARTY:</p> <p>22 Q. Dr. Plunkett, do you see the document I'm</p> <p>23 showing on my screen?</p> <p>24 MR. MEADOWS: That's lawyer -- that's</p> <p>25 lawyer talk. So please -- please drop the document</p>
<p style="text-align: right;">Page 103</p> <p>1 Q. Is it your recollection -- I'm sorry. I'm</p> <p>2 sorry to interrupt.</p> <p>3 A. It's different than a body powder. It's</p> <p>4 different than the body powder.</p> <p>5 Q. Is it your recollection that no loose or</p> <p>6 body powders were tested by FDA in any of the test</p> <p>7 results you reference in this paragraph?</p> <p>8 A. There were no Johnson & Johnson body</p> <p>9 powders tested, as I have stated. In order to</p> <p>10 answer it more specifically, I have to pull the</p> <p>11 tests out. That's what I'm answering for you. I</p> <p>12 don't recall all the things that were tested at that</p> <p>13 period of time. They had blushes and face powders</p> <p>14 and a variety of other things tested.</p> <p>15 Q. Let me show you on my screen the FDA --</p> <p>16 THE COURT REPORTER: Excuse me.</p> <p>17 Excuse me, Mark. Mark, excuse me. Leigh is trying</p> <p>18 to join again, and I need to let her in. But can</p> <p>19 you take --</p> <p>20 MR. HEGARTY: Okay. Let's go off the</p> <p>21 record.</p> <p>22 THE COURT REPORTER: Okay. We're off</p> <p>23 the record at 11:18 a.m.</p> <p>24 (A recess was taken from 11:18 a.m. to</p> <p>25 11:19 a.m.)</p>	<p style="text-align: right;">Page 105</p> <p>1 in the Chat. And if you need to go take a lesson</p> <p>2 from somebody on it -- on how to do it, please do.</p> <p>3 We'll go off the record, and you go do that. We</p> <p>4 need to see the document before you're gonna start</p> <p>5 asking her questions.</p> <p>6 MR. HEGARTY: So you're instructing</p> <p>7 her not to answer my question unless I drop it in</p> <p>8 Dropbox -- in the Chat room?</p> <p>9 MR. MEADOWS: We're not gonna go</p> <p>10 forward with the deposition unless you can start</p> <p>11 dropping these in the Dropbox so she can look at</p> <p>12 them.</p> <p>13 MR. HEGARTY: Okay.</p> <p>14 MR. MEADOWS: I mean, if you want to</p> <p>15 e-mail them to her, she can do that. But we want</p> <p>16 the document in our hand here or a way to look at it</p> <p>17 before she's required to start -- before you start</p> <p>18 asking her to answer your questions about it.</p> <p>19 BY MR. HEGARTY:</p> <p>20 Q. Doctor, did you look at the test results</p> <p>21 put -- put on the website by FDA of its talcum</p> <p>22 powder products tested?</p> <p>23 A. The ones I'm referencing in this</p> <p>24 paragraph 29? Is that what you're asking me about?</p> <p>25 Q. Yes.</p>

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1 A. I did pull the documents and looked at
 2 them, but I don't recall what's in them. So if
 3 you're gonna ask me questions about them, I would
 4 need to look at them again.
 5 Q. You do agree that all the products tested
 6 were talc-containing products, correct?
 7 A. Yes, based on the -- the -- based on the
 8 description of FDA at their website, yes.
 9 Q. All of those talc-containing products
 10 would have included talc from talc mines, correct?
 11 A. I would assume they should have all -- I
 12 don't think there's synthetic talc available
 13 commercially yet. So, yes, they should have been
 14 mined.
 15 Q. So you agree that talc can be mined and
 16 used to make consumer products that contain talc
 17 that do not contain asbestos, correct?
 18 A. I think that's beyond the scope. I
 19 haven't formed that opinion one way or the other.
 20 I'm aware of the fact that there are testing showing
 21 that at different times they don't find it under
 22 certain conditions.
 23 But it is -- as I -- as I tell you in
 24 my report -- and this is well -- well -- these are
 25 things that we've discussed multiple times at trial

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1 in the past. This is not something since August
 2 of 2020.
 3 But you -- you should know, I have the
 4 opinion that it's a -- there -- that talc is
 5 naturally occurring. And when you mine it and you
 6 process it, you end up with a mixture of
 7 constituents, some of which are toxic.
 8 Q. You also reference in this paragraph the
 9 EPA; is that correct?
 10 A. In paragraph 29?
 11 Q. Paragraph 29, you make reference towards
 12 the end to an EPA proposed rule?
 13 A. Ah, yes. Yes, that's correct. I do.
 14 Q. And you have read that proposed rule,
 15 correct?
 16 A. Yes, I have.
 17 Q. Did you --
 18 A. That was one of the documents I told I --
 19 I brought with me.
 20 Q. And do you agree with EPA's definition of
 21 "asbestos" as cited in the Federal Register that you
 22 reference?
 23 A. I haven't formed an opinion one way or the
 24 other whether I agree or disagree. I'm aware they
 25 define it.

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1 Q. Are you aware of any analysis EPA has done
 2 on any talcum powder product?
 3 A. On EPA done -- doing? Unless it's in the
 4 Federal Register notice, I don't believe they have,
 5 no.
 6 Q. What did the EPA cite or rely on, if
 7 anything, regarding any potential human health
 8 hazard of ovarian cancer as part of this proposed
 9 rule?
 10 A. I'd have to go back and look. You're
 11 asking a question that -- that -- with that, I'd
 12 have to go back and look at the rule -- the
 13 document.
 14 Do you want me to do that?
 15 Q. Would you have the -- do you have the
 16 Federal Register document?
 17 A. Yes, I do. That's one of the ones I read
 18 to you that I brought.
 19 (Speaking simultaneously.)
 20 Q. And if you look at that document and you
 21 cite two references --
 22 MR. MEADOWS: You keep referring to
 23 it --
 24 THE COURT REPORTER: Excuse me.
 25 Excuse me. Guys, guys. Ted. Ted. Ted. I can't

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1 get anything that you're saying. You're completely
 2 cut out. I can just -- I know that you are. So I'm
 3 not getting anything you're -- you're saying. I
 4 need you by the speaker, sorry, of the computer.
 5 MR. MEADOWS: Can you hear me now?
 6 THE COURT REPORTER: Yes, sir.
 7 MR. MEADOWS: Okay. Mark, you keep
 8 referring to the proposed EPA rule, and I think the
 9 sentence makes clear that it -- maybe it was
 10 proposed at once, but it's been made -- made final.
 11 BY MR. HEGARTY:
 12 Q. Does your report refer to a proposed rule,
 13 Doctor?
 14 A. It refers to both, and I printed out the
 15 proposal. But it hasn't made final, and I give you
 16 this cite.
 17 Q. How are you using the EPA action that you
 18 reference in this paragraph as part of methodology
 19 with regard to Johnson's Baby Powder and ovarian
 20 cancer?
 21 A. It has to do with the fact that they -- as
 22 my sentence says, "In addition to the actions taken
 23 by FDA, the EPA has recognized the potential human
 24 health hazard posed by the presence of asbestos as
 25 an impurity in talc." And that's my citation to the

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1 rule.

2 I'm pointing out that it's -- there's

3 more than one regulatory agency that has identified

4 a potential human health hazard posed by the

5 presence of asbestos as an impurity in talc.

6 Q. And did FDA -- I'm sorry.

7 Did EPA make any finding with regard

8 to any potential human health hazard of ovarian

9 cancer with asbestos?

10 A. That's not -- to answer that question, I

11 need to go back and look what they state. They

12 focus, I believe, on -- on work -- on mesothelioma.

13 But let me go and -- if you want me to answer that,

14 I need to look.

15 Q. How long would it take you to look?

16 A. Well, I need to pull up the -- the final

17 rule to see if it's changed. But I have the

18 proposed rule. It'll take me a couple of minutes if

19 you want me to look and see.

20 Q. We'll come back to that if we need to, if

21 we have time. But sitting here today -- or let me

22 back up.

23 You reviewed that proposed rule to

24 prepare for today's deposition, correct?

25 A. And the -- well, I also reviewed the final

Page 111

1 rule. That's correct.

2 Q. And do you recall any reference in that

3 proposed rule or final rule to any evaluation of a

4 health hazard that FDA did with regard to asbestos

5 related to ovarian cancer?

6 A. I don't recall. I'd have to look.

7 Q. Do you recall that their risk assessment

8 or -- their health hazard assessment was limited to

9 lung and mesothelioma risks?

10 A. I don't recall it was limited to that, but

11 I know that was the focus. That is true. That I

12 recall.

13 Q. Was it limited to a particular type of

14 asbestos?

15 A. I believe they looked at multiple types of

16 asbestos, but I'd need to go back and look. Again,

17 you're -- that's beyond the scope of the way I'm

18 citing the document. But I can go and look.

19 Q. Please turn to paragraph 40 of your

20 report.

21 A. (Complied.) Okay. I'm there.

22 Q. You cite in that paragraph two new

23 references: Harper 2021 and Emi 2021, correct?

24 A. Yes, but there's a typo. It should be

25 Harper, et al., 2023.

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1 Q. What from the Harper 2023 study do you

2 rely on for your opinions in this case?

3 A. For this particular study, it's a -- it's

4 a study that shows, as I cite in my bullet, that

5 a -- talc has adverse effects. And this is a

6 cellular study.

7 Q. Are you finished with what you rely on

8 from this article for purposes of your opinions in

9 this case?

10 A. In this particular paragraph, that's what

11 I rely upon. I cite it later, I think, as well when

12 I talk about adverse effects and tissues a little

13 further. But if we're talking about this paragraph,

14 it's cited there for that purpose. If you want to

15 go into detail on Harper, I'll pull it out.

16 Q. Well, if we expand upon it, what in

17 totality do you rely on from the Harper article for

18 your opinions in this case?

19 A. In -- in -- the totality of the article

20 shows that talc has adverse effects on macrophages.

21 And in this particular -- I'm sorry. That's the Emi

22 study. This is the one that's looking at primary

23 human ovarian cancer cells.

24 So this particular study is looking

25 at -- like Dr. Saed showed in his earlier work as

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1 far back as, I think, 2017 -- that talc has adverse

2 effects on this these cells that are consistent with

3 types of effects that can lead to cellular changes

4 associated with the progression into cancer.

5 Q. Are you an expert in the -- the assay used

6 by the authors in this study?

7 A. I don't know what you mean by an "expert

8 in the assay." Actually, though, this particular

9 paper, by I way, I did cover to some extent with --

10 in my previous deposition. But -- so I'd point you

11 to that. But I don't know what you mean by an

12 "expert in the assay."

13 I'm an expert in mechanisms that have

14 been associated with an increased risk of cancer

15 in -- in cells -- human cells and tissues, yes. But

16 I'm not -- I don't -- have not ever performed this

17 assay.

18 Is that what you're asking me?

19 Q. Well, what significance do you place on

20 the findings in this paper as to p53 and Ki-57?

21 A. I -- I put no specific evidence on that

22 particular finding, if that's what you're asking me.

23 Again, as part of my overall evidence for the fact

24 that the effects -- adverse effects that talc has on

25 cells and tissues include the types of effects you

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1 would expect to see for a toxicant or a particle
 2 that can initiate and then lead to cancer
 3 development in tissues.
 4 Q. You mentioned that you discussed the --
 5 the Harper paper at your October 2023 deposition?
 6 A. Yes.
 7 Q. Have you done any further analysis or
 8 review of anything related to that study since your
 9 October '23 -- 2023 deposition?
 10 A. No.
 11 Q. You were shown --
 12 A. Other than described -- other than
 13 described it and add it into this report.
 14 Q. You were shown at that deposition comments
 15 of reviewers.
 16 Do you recall that?
 17 A. The confidential comments back and forth
 18 between the editors and the reviewer -- of the
 19 reviewers, yes. To the author, yes, I have seen
 20 those.
 21 Q. Have you done any further review of those
 22 comments since your October 2023 deposition?
 23 A. No. Again, it's not the kind of thing
 24 that a scientist would have access to typically. As
 25 I told Ms. Davidson that the paper was published in

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1 a peer-reviewed journal that underwent peer review.
 2 And as a result, it's -- it is an appropriate
 3 relevant paper to consider as part of weight of the
 4 evidence.
 5 Q. Is it relevant as part of your methodology
 6 in citing this paper whether one of the authors was
 7 a paid -- is a paid plaintiffs' expert in this
 8 litigation?
 9 A. It is part of what you consider when you
 10 look at -- at the papers. Absolutely. It doesn't
 11 mean that it disqualifies a particular paper. Like
 12 it just -- like it would not necessarily disqualify
 13 it if it had been written by a defense expert
 14 either.
 15 Q. In fact, you reference in various parts of
 16 your report studies that were funded by PCPC,
 17 studies funded by Huncharek and Muscat, among
 18 others.
 19 Do you recall that?
 20 A. Yes, I do.
 21 Q. Do you make any reference in this part --
 22 in your report to the fact that this study was
 23 supported by -- or was supported by plaintiffs'
 24 counsel in this litigation?
 25 A. I don't make that statement in my report,

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1 but the papers -- I would point you to the paper
 2 where, I believe, he discloses that conflict.
 3 Q. Well, why did you refer to -- in your
 4 report to studies funded by Johnson & Johnson or
 5 PCPC, but you did not refer to your -- in your
 6 report to this study being funded by counsel for
 7 plaintiffs?
 8 A. It's a really long answer.
 9 Would you like me to go ahead? I can
 10 tell you why very specifically. We've discussed
 11 this at trials, in fact, as well.
 12 Q. How long of an answer is it because my
 13 time is limited.
 14 A. Well, that's why I'm -- I'm saying to you.
 15 I believe I've told you this -- or I may not you
 16 specifically, Mr. Hegarty. I apologize. I've said
 17 this at trial.
 18 The issue is with the PCPC study and
 19 the work that was done was those studies were
 20 being -- often being done or being initiated in
 21 order to essentially change the narrative that the
 22 industry was trying to change around talc.
 23 So it's a different issue, in -- in my
 24 view, than an investigator who may have been paid
 25 to -- to do a scientific study. And the study has a

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1 result, and he reports it as -- along with his
 2 conflict.
 3 I would also -- I think I also pointed
 4 out in my testimony that there are papers by PCPC
 5 funding that -- that were not disclosed as part of
 6 the author's disclosure. And so, again, I -- I have
 7 to point you to my testimony.
 8 I think this -- on direct and both on
 9 cross, I've spent a lot of time talking about issues
 10 related to the studies and the investigations and
 11 the work that was done by industry to essentially
 12 block the truth about the hazard posed by talc.
 13 Q. What from the Emi study do you rely on for
 14 your opinions?
 15 A. For the Emi study, that was the one on
 16 macrophages. So this study is, again, showing that
 17 there's an adverse effect in a cell, a macrophage
 18 cell, by the exposure to talc. They also compared
 19 it with titanium dioxide. I think this is the study
 20 where they looked at it both with and without the
 21 presence of estrogen as well.
 22 What was interesting about this study
 23 was it's just as consistent showing that talc has
 24 adverse effects. Like other studies that looked at
 25 macrophages, they also are repeating, showing

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1 reproducibility of the ability of talc to cause
 2 toxic effects to the macrophage cell.
 3 And if you, again, remember my
 4 testimony at trial, we've shown an animation video
 5 where I've talked about the fact that toxic effects
 6 of talc on macrophages would -- would be part of
 7 this overall process where you get to an initiation
 8 of the -- the carcinogenesis through -- and I also
 9 think it had a -- I have a figure where I talk about
 10 carcinogenesis and I talk about the role of
 11 macrophages.
 12 So this data's relevant to that.
 13 Q. What toxic effects did this paper show on
 14 macrophages?
 15 A. It shows that it had -- it changes these
 16 transcription and the function of the macrophages.
 17 And that -- and if -- if you want more details, I'll
 18 pull it back out because I don't -- I can't tell you
 19 off the top of my head all the specific endpoints.
 20 But it is looking at the function of
 21 macrophages and their inability to respond in
 22 certain ways when they've been -- when they have --
 23 when there's -- there's an exposure to talc,
 24 particularly in the -- in the presence of estrogen,
 25 I believe, as well.

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1 Q. Did this show the same changes in function
 2 resulting from titanium and dioxide exposure?
 3 A. Titanium saw some of the -- some of the
 4 same changes, yes. So they talked about particles,
 5 and I talked about that in my testimony. The issue
 6 of there can be an effect due to a particle alone.
 7 But there's also very specific things
 8 about talc that are unique as compared to titanium
 9 dioxide. The literature hasn't shown or hasn't gone
 10 into the same routes as we have with the -- the
 11 abundance of the literature looking at this issue.
 12 What is the plausible mechanism behind
 13 the ability of talc -- baby powder in particular, in
 14 a mixture, chemical mixture -- to induce changes
 15 that can lead you to an increased risk of cancer.
 16 Q. The Emi paper looked at mouse macrophages,
 17 correct?
 18 A. I'll have to pull it out. I think that's
 19 correct, but hold on.
 20 (Examined exhibit.) Yes, they looked
 21 at mouse cell lines. That's correct.
 22 Q. Do mouse macrophages act the same as human
 23 macrophages?
 24 A. So do you want an entire treatise about
 25 changes and differences?

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1 They are an appropriate model to use
 2 to look at predicting the effects of mammalian cells
 3 to adverse effects with exposure to chemicals.
 4 They're not gonna be exactly the same. But they --
 5 they are a valid model, and there have been others
 6 that have looked at mouse models -- mouse macrophage
 7 models in the same way.
 8 Q. The changes reported then publish with
 9 regard to human macrophages.
 10 In other words, how do you think -- go
 11 ahead. I'm sorry.
 12 A. I believe there is a -- oh, no.
 13 I think one of my papers -- and I have
 14 to pull them back out. Let me -- if you want me to
 15 look in my report. I believe that there is a paper
 16 that I have reviewed and relied upon that talks
 17 about human macrophages.
 18 Q. Let me be more specific.
 19 Have these same tests been done as to
 20 human macrophages?
 21 A. The exact same methodology? I haven't
 22 seen them report that yet. It doesn't mean that
 23 they won't, but I haven't seen that -- that as -- as
 24 exactly what they did. No, I can't answer that
 25 without looking. But I haven't seen it that I

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1 recall.
 2 Q. And as far as Emi -- the Emi paper, did
 3 you assess or evaluate the strengths and weaknesses
 4 of the study?
 5 A. From its -- from my review of the paper, I
 6 always do. I read -- I read the materials and
 7 methods. I have read the overall discussion, look
 8 at the conclusions whether or not -- my typical
 9 weight of the evidence, yes.
 10 It would go into my looking at the
 11 quality of the paper, the way they describe the
 12 data, whether they do appropriate statistics or not,
 13 whether or not they can do a statistics or not based
 14 on the endpoints they -- they report.
 15 So, yes, I did do that.
 16 Q. Can you cite any study showing an
 17 association between the findings from the Emi paper
 18 and ovarian cancer risk?
 19 A. A single study?
 20 Q. Or other numbers.
 21 (Speaking simultaneously.)
 22 A. On the macrophages -- do you want me to
 23 explain why?
 24 Q. No. I just want you to tell me if you can
 25 cite to a study that is shown an association between

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1 the findings in the Emi paper and ovarian cancer
 2 risk?
 3 A. And I'm saying to you that doesn't make
 4 sense.
 5 Do you want me to explain why?
 6 Q. My question does not make sense?
 7 A. No. What you're asking for would not make
 8 sense for a scientist to report.
 9 Would you like me to explain why?
 10 Q. You're not aware of any science --
 11 scientist reporting that the type of findings in the
 12 Emi paper are related to ovarian cancer risk?
 13 A. I'm saying to you that's not an
 14 appropriate question to ask.
 15 Would you like me to explain why?
 16 Q. How long would it take you to explain why?
 17 A. Hopefully not too long.
 18 Q. Why isn't it an inappropriate question?
 19 A. So you're asking a -- about a cellular
 20 study looking at transcription and epigenetic
 21 changes, and then you're asking to extrapolate that
 22 directly to ovarian cancer.
 23 And I'm saying to you: No one single
 24 paper, one single opinion can do that. Instead you
 25 have to look across all of the evidence you have and

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1 look at what you know about the mechanism, whether
 2 or not this fits.
 3 So the question you're asking me
 4 just -- I mean, it -- I -- I would never ask that
 5 question, as a scientist. That makes no sense. I
 6 would never expect to find a paper that says it the
 7 way you're saying it.
 8 What I would say instead is this is an
 9 appropriate paper. And it is entirely consistent
 10 the way a scientist would go about the process
 11 building from the bottom up, looking at, you know,
 12 what is happening in cells and tissues. Then what's
 13 happening in tact animals.
 14 I've talked about this before in my
 15 testimony. And then looking at the correlation of
 16 all of that information and the concordance of that
 17 information with what we know about how ovarian
 18 cancer can occur in humans.
 19 Q. Please turn to paragraph 41 of your
 20 report.
 21 A. (Complied.) Okay.
 22 Q. You make reference to Health Canada or
 23 Canada proposing to add -- or -- or amend its talc
 24 listing on its cosmetic ingredient hot list; is that
 25 correct?

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1 A. Yes, and I added a clause because I'm
 2 pointing you to the part of that hot list that talks
 3 about perineal use of talc.
 4 Q. And to date, Canada has not implemented
 5 any restrictions on talcum powder as it relates to
 6 ovarian or other cancer, correct?
 7 A. What do you mean by "restrictions"? Have
 8 they banned it? Is that what you're saying?
 9 Q. Well, have they restricted its use or
 10 required any warnings on any talcum powder product
 11 as it relates to ovarian cancer?
 12 A. Well, that's what this hot list is meant
 13 to be. It's -- it's meant to be a -- a description
 14 of -- for consumers to see what they have -- they,
 15 Health Canada -- has identified as a risk associated
 16 with use of a product.
 17 But if -- if you're asking about
 18 requiring warning on a bottle, they've -- this --
 19 these products are no longer distributed in Canada.
 20 So I -- I -- that would also -- doesn't make sense
 21 based on the -- when the decision was made.
 22 Q. Well, the reference you've added is to
 23 potentially revising or amending its talc listing is
 24 subject to a comment period, correct?
 25 A. Yes, that's correct.

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1 Q. And did you submit any comment?
 2 A. No, I did not.
 3 Q. Do you know anyone who did?
 4 A. It's possible. I remember talking about
 5 this with someone at a deposition in the past.
 6 Maybe it was the deposition I gave with Mr. Smith in
 7 St. Louis, not with you, where we went over this --
 8 these -- the Canadian report and the initial
 9 Canadian actions.
 10 Q. Now my question is simply limited to the
 11 proposed amendment to the hot list.
 12 You agree that that's subject to
 13 comment, correct?
 14 A. And I answered that for you. And I'm
 15 saying I'm -- I'd have to go back and look if I
 16 know. I believe this issue came up, though, in
 17 another deposition. And I'd have to go back and
 18 look. I'm -- I'm sure I know someone who has made a
 19 comment, yes, because I'm aware of a number of
 20 scientists who involve -- who are involved in this
 21 area.
 22 Q. And what you're referring to in your
 23 report is a proposal, correct?
 24 A. They still have -- have not finalized it.
 25 Is that what you're asking me? That

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1 is a --

2 Q. Well, that's another way of asking it.

3 A. Well, that's how I would put it. That is

4 correct. It is -- it has not been -- and it's not

5 been identified yet as final.

6 Q. You cannot say, sitting here today, that

7 the final entry for talc is going to be what has

8 been proposed, correct?

9 A. I can -- I can't tell you for sure. But I

10 can tell you that I believe it will, based upon my

11 experience with how this process goes and the fact

12 this is -- this is something that hasn't changed in

13 the two years, I think, that it's been on the -- on

14 the Health Canada website.

15 Q. Please turn to paragraph 64 --

16 A. Health Canada is consistent with their --

17 their screening assessment as well.

18 Q. Please turn to paragraph 64.

19 A. (Complied.) Yes, I'm there.

20 Q. You added a reference in that paragraph to

21 Ding 2021, correct?

22 A. Yes, that's correct.

23 Q. What does that paper add, or -- or in what

24 way do you rely on that paper for the opinions you

25 set out in this paragraph?

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1 A. So these citations are all talking about

2 the fact that there appears to be a consensus on a

3 general mechanism about chronic inflammation and

4 cancer, including ovarian cancer.

5 It's another -- a more recent review

6 paper. I think the -- the most recent things that I

7 had cited here as far as a review paper may have

8 been 2015. So I'm citing something more recent

9 showing that over the years, that this is a

10 mechanism that appears to be a consensus or accepted

11 by the community in terms of ovarian cancer.

12 The idea that chronic inflammation and

13 oxidative stress are mechanism underlying certain --

14 certain forms of ovarian cancer.

15 Q. The Ding paper makes no reference to

16 talcum powder or talc use, correct?

17 A. I believe that's true, yes. Again, it's

18 an overall mechanism, and I cite -- as I cite to the

19 issue of chronic inflammation, oxidative stress, and

20 ovarian cancer.

21 Q. As you mention, this is a review paper.

22 It includes no original data, correct?

23 A. It cites to original data, but it is -- it

24 is a review paper. That is what review papers do.

25 Q. Please turn to paragraph 72.

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1 A. (Complied.) Yes.

2 Q. You make reference in this paragraph to

3 the Woolen 2022 article?

4 A. Yes, it's one of the -- one of the three

5 new ones that are -- are listed in this paragraph.

6 Q. And what does the Woolen 2022 article

7 contribute to your opinions in this case?

8 A. Well, it's, as cited in this paragraph,

9 it's the idea that -- that scientists have found

10 that -- have -- have reported on an association of

11 an increased risk of ovarian cancer in women exposed

12 to talc.

13 So it is a study that was done. And

14 what was important about this -- I cite it later in

15 my report because it also reports -- I believe this

16 is the one that reports on frequency abuse. So the

17 issue of more frequent users being at a -- at a risk

18 of exposure -- I mean, sorry, at a risk of cancer

19 due to their exposure to talc.

20 Q. As you just mentioned, this paper looks at

21 frequency of use, correct?

22 A. Yes, that's correct.

23 Q. It does not look at duration of use,

24 correct?

25 A. It talks about frequency. And then -- and

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1 the authors talk about why they did what they did,

2 but that's correct. They talk -- their metric is

3 frequency. I think greater than two times a week.

4 Q. So looking just at frequency as a valid

5 measure of whether an association exists between

6 talcum powder use and ovarian cancer, correct?

7 A. Well, I would say frequency and duration,

8 as I describe in my report, are valid measures. And

9 in the Woolen paper, she relies on studies that

10 looked at both duration as well as frequency.

11 But she reports as her metric the

12 way -- the selection of studies that had at least

13 exposure for two times a week. And all of those

14 people in those studies had years of exposure if I

15 remember. You can -- we can look at them.

16 She has 10, 12 studies she relies upon

17 and looks at. So it's not just two times a week for

18 two weeks. It's much longer than that.

19 Q. And you just said the metric -- the only

20 metric reported was the frequency of use, correct?

21 A. Well, the only metric that she talks about

22 when -- when she -- so when the -- the Woolen

23 authors report their studies, they talk about

24 frequency in terms of greater than two times a week.

25 But they do a very good job of laying

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1 out for you what the basis of their data is. And
 2 their data includes studies that look at duration
 3 and frequency.
 4 And these -- the -- the individuals in
 5 the studies that are included in their analysis are
 6 exposed for a very long period of time. Her
 7 whole -- it -- it -- I don't -- I don't know the
 8 person personally.
 9 But, to me, when you read the article,
 10 what's important about it is they're looking at
 11 trying to assess and identify a signal -- what
 12 cancer signal there would be in people that have
 13 been exposed to a -- for a long period of time or to
 14 a higher potential dose.
 15 And "dose," as I say in my report, is
 16 a function of both frequency and -- and duration of
 17 use.
 18 Q. You also mention in this article a 2021
 19 Davis paper, correct?
 20 A. Yes. Yes, that's correct.
 21 Q. And what from that paper do you rely upon
 22 for your opinions in this case?
 23 A. Just the overall findings that it's a --
 24 one of the largest studies that looked -- has looked
 25 at this issue of ethnicity and looked at

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1 African-American versus white women.
 2 It -- it is consistent with other
 3 studies that appeared in the literature. So I'm
 4 adding these, not that any one of these papers --
 5 any one of these papers by themselves is the most
 6 important, but they add to the weight of the
 7 evidence, from my opinion, that there's an increased
 8 risk of cancer with exposure to talc with perineal
 9 use.
 10 Q. One of the authors is Patricia Moorman,
 11 correct?
 12 A. To answer that, I've got to pull it out.
 13 Hold on just a second. Yes, that's correct.
 14 Q. Are you aware that she's an expert, as you
 15 are, in the MDL litigation?
 16 A. No, I don't know the names of all the
 17 other experts.
 18 Q. If you look at the author's disclosure on
 19 page 1667, her disclosure says (as read) "P. G.
 20 Moorman reports grants from Duke University during
 21 the conduct of the study, as well as personal fees
 22 from Law Firm submitted -- Law Firm outside the
 23 submitted work."
 24 Do you see that?
 25 A. Yes.

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1 Q. If Patricia Moorman is an MDL expert for
 2 the plaintiffs in this litigation, is that a
 3 sufficient disclosure for her?
 4 A. I haven't formed an opinion one way or the
 5 other. She tells me that she has -- has -- she's
 6 disclosed that she's working in litigation. So to
 7 me, I don't think it would matter to me whether she
 8 was plaintiffs or defense.
 9 She's disclosed that she works with
 10 law firms, and so that is part of your evaluation.
 11 She's one of a group of -- of authors, though, so
 12 she's not the only author in there. And if she's
 13 the only one that has that affiliation, that's also
 14 part of what you consider.
 15 Q. So as you said, you don't have an opinion
 16 as to the adequacy or sufficiency of that
 17 disclosure; is that correct?
 18 A. I have not formed an opinion one way or
 19 the other, no.
 20 Q. You also cite in this part of your report
 21 the Phung 2022 article?
 22 A. Yes.
 23 Q. What is it from the Phung 2022 article
 24 that contributes to your opinions in this case?
 25 A. It's, again, another one of the studies

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1 that has come out more recently that shows that
 2 there's an increased risk of cancer in women exposed
 3 to talc.
 4 This article also has a nice
 5 discussion about -- we were talking a little earlier
 6 about the Ding paper and inflammation. It's
 7 talking -- when it talks about the issues of
 8 underlying mechanism, as it has on page 964, a nice
 9 discussion of the role of inflammation in ovarian
 10 cancer.
 11 Q. This is a case-control study, correct?
 12 A. Yes, that's correct.
 13 Q. What does the findings with regard to --
 14 with and without endometriosis contribute to your
 15 opinions in this case?
 16 A. I haven't formed an opinion one way or the
 17 other that -- about endometriosis by itself. So
 18 you -- I would defer you to the epidemiologists that
 19 I know are addressing those other risk factor
 20 issues.
 21 MR. HEGARTY: We've been going about
 22 another hour and ten minutes. Let's go ahead and
 23 take another break.
 24 Go off the record.
 25 THE COURT REPORTER: All right. We're

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1 off the record at 11:53 a.m.
 2 (A recess was taken from 11:53 a.m. to
 3 12:02 p.m.)
 4 THE COURT REPORTER: All right. We're
 5 back on the record at 12:02 p.m.
 6 MR. HEGARTY: Dr. Plunkett, please
 7 turn to paragraph 105 of your report.
 8 A. (Complied.) Yes, I'm there.
 9 BY MR. HEGARTY:
 10 Q. The last sentence of that paragraph makes
 11 reference to the terms or phrases "misbranded
 12 product" or "adulterated product."
 13 Do you intend to testify in this case
 14 that Johnson & Johnson's talcum powder products met
 15 the regulatory definition of "misbranding"?
 16 A. I don't know what questions I'll be asked
 17 at trial, so I can't answer that.
 18 If asked the question, I would say
 19 that -- that the weight of the evidence, the
 20 information have I -- that I have seen as I describe
 21 here, would be consistent with the FDA definition.
 22 That's the word I would use.
 23 Q. Well, let me -- let me go to what you did
 24 say.
 25 Are you saying in this paragraph that

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1 Johnson & Johnson's talcum powder products met the
 2 regulatory definition of "misbranding"?
 3 A. I'm saying that -- that the -- as I have
 4 discussed here, the -- the talc constituents, the
 5 fact that the -- those talc -- toxic constituents
 6 are not on the label would be consistent with the
 7 FDA's definition of a misbranded product as well as
 8 an adulterated product. I would state it
 9 specifically how I have it here.
 10 Q. Do you intend to testify by this statement
 11 that Johnson & Johnson violated FDA regulations with
 12 regard to labeling or content of its talcum powder
 13 product?
 14 A. So that's not typically the way the
 15 question would be asked of me. And so, as you would
 16 see here, I don't believe that that is something I
 17 have expressed at this period -- at this point in
 18 time, no.
 19 Q. What should the label have said with
 20 respect to each of these "constituents," as you call
 21 them?
 22 A. So I haven't formed an opinion what the
 23 label language specifically should state, as I've
 24 told you before. But in the issue of the
 25 constituents, it's the issue of listing what was

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1 there that they knew existed.
 2 Q. And do you intend to testify that the --
 3 that Johnson's Baby Powder should have listed on its
 4 labeling asbestos, fibrous talc, nickel, chromium,
 5 and cobalt?
 6 A. That is not what I'm stating here. I
 7 would -- I would -- again, I would point you to what
 8 I've specific -- what I'm specifically saying. I'm
 9 specifically -- specifically saying to you with --
 10 with the issue of these toxic constituents that
 11 their presence is consistent with the FDA's
 12 definition of a misbranded or adulterated product.
 13 Where I have stated for you a more
 14 positive or a, I guess, a more -- a different
 15 opinion about what's on the labeling, as I've told
 16 you, that they should have added -- at least to add
 17 a warning to their product based on what they knew
 18 many, many, many years ago, back in the ...
 19 Oh, gosh. I think I've -- we've --
 20 we've talked about what they knew as far back as the
 21 1930s, '40s, and '50s in terms of what could go on
 22 the label. And I still stand behind all those
 23 opinions I've expressed at trial and deposition
 24 about the warnings that needed to go on.
 25 Q. Can you cite for me any cosmetic product

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1 that -- that makes reference to any of the toxic
 2 constituents you reference in this paragraph?
 3 A. That's beyond the scope of what I did.
 4 Q. Can you cite for me any food or beverage
 5 product that makes reference to any of the toxic
 6 constituents you reference in this product -- in
 7 this paragraph?
 8 A. That was also beyond the scope of what I
 9 did.
 10 Q. Is it your opinion -- let me -- let me
 11 restate that.
 12 Are you saying by this paragraph that
 13 Johnson & Johnson Baby Powder and Shower to Shower
 14 since the 1950s have been misbranded under FDA's
 15 cosmetic regulations?
 16 A. No, that's not what I'm stating for you.
 17 Go to what I am stating. I am telling
 18 you that -- that I -- I am very specific in -- in --
 19 about what I am stating here based upon my opinions
 20 that I have formed to date.
 21 And my opinion would be that the
 22 presence of these toxic constituents, such as -- I
 23 list them for you -- in Johnson & Johnson's Baby
 24 Powder and their failure to list them would be
 25 consistent with the definition.

<p style="text-align: right;">Page 138</p> <p>1 Q. Can you cite for me any published 2 authority that you rely on to say that having 3 asbestos, fibrous talc, nickel, chromium, and cobalt 4 in the amounts you say in your report and not having 5 them listed in the label meet FDA's definition of 6 misbranding? 7 A. I can't -- I haven't done a look for such. 8 I -- I don't know that there would be such. 9 All I can tell you is that in my 10 original report for the MDL, in paragraph 19 -- and 11 it's also in this report -- I define for you what 12 misbranding and adulteration are. 13 And I'm observing for you here, based 14 upon -- stating for you here, based upon what we 15 know, that the presence and the lack of description 16 would -- would be consistent with the definition 17 that FDA gives to miss -- a misbranded product or an 18 adulterated product. 19 And that's all I'm trying to say. 20 Q. What is your standard for the volume of 21 each of the -- each of these constituents in a 22 product that constitutes adulteration? 23 A. So for any particular constituent, it may 24 or may not be a volume. It depends on what that 25 constituent does. So if it's a constituent --</p>	<p style="text-align: right;">Page 140</p> <p>1 done today. 2 Is it possible that the answer to that 3 question be yes? But it's beyond what I've done. 4 Q. If there is a cosmetic product that 5 contains any level of these constituents that's not 6 referenced in the label, is that product misbranded? 7 A. Say that again. 8 Q. If there is a cosmetic product that had 9 any level of the toxic constituent you reference in 10 this label and that those constituents are not 11 listed in the label, is that product misbranded? 12 A. I haven't formed that opinion. 13 Again, I would say to you that the 14 presence of these toxic constituents, if they 15 weren't in a label, could meet or would potentially 16 meet the FDA definition of misbranding. But I 17 haven't formed an opinion as you're stating it. 18 Q. Have you ever published a paper or an 19 article describing when a consumer product is 20 misbranded? 21 A. I don't think the -- the papers and 22 articles or book chapters I've written on regulatory 23 matters address this specifically, no. 24 Q. Same question as to adulterated: Have you 25 ever written -- have you ever published any paper or</p>
<p style="text-align: right;">Page 139</p> <p>1 and -- and what kind of a product it is. 2 So, again, I haven't formed an opinion 3 about any particular constituent in any known volume 4 at this particular point in time. 5 But, again, the mere presence of 6 these -- of a known carcinogen, such as asbestos, 7 for example, and the presence of known carcinogens 8 that are certain heavy metals -- and, again, I've 9 talked about this at trial before, what we know 10 about those and the hazards they posed. 11 Again, it would be consistent with the 12 FDA definition of a misbranded and/or adulterated 13 product, regardless of -- 14 Q. Is it your opinion -- I'm sorry to 15 interrupt. 16 A. Okay. Regardless of what particular level 17 you want to point to, if what you're asking me, are 18 there standards put in certain products for certain 19 things, there are. Not for asbestos, however, in 20 terms of consumer products. 21 Q. Is it your opinion that any cosmetic 22 product that contains any of these constituents at 23 any level is adulterated? 24 A. Could be, yes. I -- I haven't formed that 25 opinion. You're asking something beyond what I've</p>	<p style="text-align: right;">Page 141</p> <p>1 article -- or article describing when a product, in 2 particular a cosmetic product, is adulterated? 3 A. I don't think I have. I -- I'd have to go 4 back and look at what I said in some of my papers 5 where I talked about silicone products. But I don't 6 recall that, no. I think that probably the answer 7 to that is probably no. 8 Q. Have you ever lectured to your -- your 9 peers the standards for when a cosmetic is 10 misbranded? 11 A. I have given lectures to students on 12 misbranding in either -- graduate students or 13 actually even -- we -- I talked about this years ago 14 in some of the classes I did for law students and 15 graduate students around products of biotechnology 16 because I -- we talk about adulteration and 17 misbranding for all classes of compounds, not just 18 cosmetics. All classes of products, not just 19 cosmetics. 20 Q. Outside of the classwork you just 21 referenced, have you ever lectured to your peers the 22 standards for when a cosmetic is misbranded or 23 adulterated? 24 A. I don't think I have, no. 25 Q. Has the FDA ever -- ever determined that</p>

<p style="text-align: right;">Page 142</p> <p>1 any Johnson & Johnson talcum powder product contains 2 asbestos?</p> <p>3 A. Well, they detected it in their testing in 4 at least one lot in 2019.</p> <p>5 Is that what you're asking me?</p> <p>6 So they did. And I think they 7 discussed some of this at -- I'd have to go back and 8 pull the transcripts from the February 2020 9 workshop. I -- there were some people from the 10 agency -- or experts from the agency that were 11 talking about this issue of contamination of the 12 products with asbestos or asbestos-like materials. 13 But that's what I would point you to.</p> <p>14 Q. Has FDA ever found that any Johnson & 15 Johnson talcum powder product was misbranded?</p> <p>16 A. I haven't seen evidence for that, but I 17 can't tell you that they haven't ever gotten a 18 letter from FDA about something. I don't know.</p> <p>19 Because you're asking me about -- 20 generally about this branding for the products, and 21 I don't know. I'd have to go back. That's a -- 22 that's a search I'd have to do in Johnson & 23 Johnson's own files to answer that.</p> <p>24 Q. Has FDA ever found that any Johnson & 25 Johnson talcum powder product was adulterated?</p>	<p style="text-align: right;">Page 144</p> <p>1 authority now, but they've never been able to 2 require it. But certainly, I -- I am sure they have 3 had conversations, based on what the company did 4 with the voluntary recall of the products in the 5 past.</p> <p>6 Q. My question is --</p> <p>7 A. So I can't answer -- I can't answer that 8 specifically without looking to see if there's an 9 e-mail communication or something that -- that uses 10 the words you're using.</p> <p>11 Q. Has the FDA ever -- ever determined any 12 Johnson & Johnson talcum powder product ever 13 contained nickel, chromium, or cobalt?</p> <p>14 A. I don't know. I haven't seen FDA testing 15 for heavy metals. I know the company has found it 16 in their own testing.</p> <p>17 Q. Is it your opinion that the components you 18 list that you say adulterated Johnson & Johnson's 19 talcum powder product can cause a user to develop 20 ovarian cancer?</p> <p>21 A. Say that again.</p> <p>22 Q. Is it your opinion that the "toxic 23 constituents" that you reference in this paragraph 24 that you say constituted or made Johnson & Johnson's 25 talcum powder products misbranded or adulterated can</p>
<p style="text-align: right;">Page 143</p> <p>1 A. Well, when they suggested a voluntary 2 recall with asbestos, I would say that was a finding 3 that if they hadn't have recalled, they would have 4 potentially gotten a warning letter.</p> <p>5 That's my understanding of the 6 process. But they did a voluntary recall, which is 7 all FDA could you actually ask for at that 8 particular time in 2019, so ...</p> <p>9 Q. My question is -- my question is 10 specifically as to whether you're aware if FDA ever 11 made a determination that any Johnson & Johnson 12 talcum powder product was adulterated?</p> <p>13 A. And I'm stating for you that that -- that 14 finding would be consistent with the testing that 15 FDA did. And then the voluntary recall that 16 happened, I'm not aware of the specific conversation 17 they may or may not have had with FDA around that 18 time. I'd have to go look and see if there's any 19 internal company documents where there was a 20 communication about that with them.</p> <p>21 Q. Did FDA ever request -- has FDA ever 22 requested a recall of any Johnson & Johnson talcum 23 powder product?</p> <p>24 A. Well, they can't -- they can't require it 25 or -- well, they're supposed to be able to have more</p>	<p style="text-align: right;">Page 145</p> <p>1 cause ovarian cancer?</p> <p>2 MR. MEADOWS: Objection. It's not -- 3 misstates her testimony.</p> <p>4 A. So I was gonna say: I'm not a causation 5 expert, so I wouldn't have stated anything like 6 that. What I said instead is that the presence of 7 the toxic constituents are consistent with a product 8 that poses a hazard for cancer and that overall 9 the -- the talcum powder product exposure in women 10 has been shown to increase the risk of ovarian 11 cancer.</p> <p>12 But there is -- if -- if you ask me 13 about individual data points, there is data on all 14 of those toxic constituents individually showing 15 that they can lead to tissue changes, cellular 16 changes.</p> <p>17 Or even there's studies in animals on 18 some of those as isolated constituents to show that 19 they're carcinogenic. But the animal studies and 20 the tissue studies obviously are not human 21 epidemiological studies.</p> <p>22 And the human epidemiological studies 23 have looked at the whole product, not just at an 24 individual constituent, except for -- as I pointed 25 out in my -- in my report and also in my discussions</p>

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1 at trial -- with the issues related to the findings
 2 in the 1950s with asbestos and ovarian cancer.
 3 Asbestos itself has been identified as
 4 a human carcinogen, and ovarian cancer is one of the
 5 types of cancer that has been linked to exposure to
 6 asbestos.
 7 BY MR. HEGARTY:
 8 Q. Can you cite for me any authorities that
 9 have determined or concluded that nickel, chromium,
 10 or cobalt are carcinogenic with regard to ovarian
 11 cancer?
 12 A. I'd have to go back and look at my files.
 13 I would say to you I can't answer that without
 14 looking at this point in time.
 15 And I -- let me -- and can I add one
 16 more thing, Mr. Hegarty?
 17 When we were talking about the ovarian
 18 cancer and -- and asbestos a minute ago, the --
 19 during the break, I did look at the EPA rule, and it
 20 does mention ovarian cancer in it.
 21 Q. What does it say?
 22 A. It says, (as read) "Asbestos is a hazard
 23 to human health. Some of the health effects caused
 24 by exposure to asbestos are: Lung cancer; Ovarian
 25 cancer; Laryngeal cancer; and Mesothelioma, a cancer

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1 of the thin lining -- lining of the lung, chest and
 2 the abdomen and the heart." And this is on page
 3 27063 of --
 4 Q. Is there any citation -- I'm sorry. Go
 5 ahead?
 6 A. And that's of the proposed rule.
 7 Q. Is there any citation to authority for
 8 that statement as it relates to ovarian cancer?
 9 A. It's through EPA's authority based on
 10 their review of the evidence.
 11 I mean, I would say to you -- are
 12 you -- you're asking me do they state to studies?
 13 I -- I have given you have those
 14 studies in my report because in my report, I have a
 15 specific section on asbestos -- and we've talked
 16 about this at trial -- and ovarian cancer. And
 17 there are scientific studies that describe that.
 18 Does -- does the case --
 19 Q. I did not ask you that question,
 20 Dr. Plunkett.
 21 My question was: Does EPA cite to any
 22 scientific or medical authorities in support of the
 23 statement you said as it relates to ovarian cancer?
 24 A. They are citing their own authority;
 25 they're not citing to an authority. They're citing

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1 their evaluation of the -- of the science and the
 2 literature in this particular document.
 3 Q. Are you saying that the document you're
 4 looking at includes a evaluation by EPA of the
 5 literature on asbestos and ovarian cancer?
 6 A. Well, it's their summary under
 7 "Background" of where they talk about what is
 8 asbestos and what do we know about it. So they
 9 don't give all the details with all the references.
 10 But I -- I can tell you there are
 11 other documents that EPA has authored in the past
 12 and other regulatory authorities have authored in
 13 the past where it's very clear that asbestos poses a
 14 risk of cancer.
 15 And ovarian cancer is one of those
 16 risks that the regulatory authorities are -- are
 17 aware of in terms of risk to humans.
 18 Q. Please turn onto paragraph 121 of your
 19 report.
 20 A. (Complied.) Okay I'm there.
 21 Q. You added into that paragraph a reference
 22 to "failure to meet the CIR standard."
 23 Do you see that?
 24 A. Yes.
 25 Q. And why did you add that reference?

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1 A. To give clarity to things I've already
 2 said at trial before in another testimony. Almost
 3 every time I testify about talc, I talk about what
 4 they knew over time. And the fact that they were
 5 aware that -- I -- and I shouldn't say they are --
 6 that Johnson & Johnson show -- the documents show
 7 that Johnson & Johnson was -- was well aware that
 8 corn starch was a safer alternative.
 9 They even did studies and did -- did
 10 work in order to look at the difference between
 11 those and talk about in documents the differences
 12 between talc and corn starch. So that is -- that
 13 part of the sentence is something that's been in my
 14 testimony for a very long period of time.
 15 And I added this sentence because
 16 of -- at -- what was in the report before talks
 17 about the -- the CIR standard states there is no
 18 evidence to -- to demonstrate grounds.
 19 And so I'm tying this in up now with
 20 what I have said at trial, which is the issue of the
 21 product was unsafe. The product posed a hazard.
 22 And it didn't even meet the CIR standard of no
 23 evidence because we obviously know there's lots of
 24 study of evidence that I cite in my report.
 25 So I think I'm trying to bring in here

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1 at this time a very specific statement that is
 2 consistent with things I've said and -- and
 3 testified to -- to before. I don't believe it's a
 4 new opinion. I believe it is a description of what
 5 I've -- I've said in the past.
 6 Q. Who besides you, that you're aware of,
 7 have -- has ever concluded that talcum powder
 8 products do not meet the CIR standard for safety?
 9 A. I haven't done a look to see if there's a
 10 variety of authorities. I can tell you, however,
 11 that it's not needing an authority to say it. If
 12 the standard has no evidence and I can point you to
 13 lots of evidence about a hazard, then it makes no
 14 sense.
 15 If you read the CIR report on talc,
 16 the reason that they draw the conclusions that they
 17 do is because they assume that there is no
 18 possibility of exposure. And that is just not true,
 19 as I also spent a whole lot of time in my report
 20 talking about how we know that exposure can occur.
 21 So if you -- so the issue here is just
 22 an understanding -- this is not rocket science.
 23 This doesn't even take a lot of toxicological
 24 expertise to understand what no evidence means.
 25 And then we have a -- you know, I've

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1 laid out for you in my report. And you and I have
 2 talked about it a lot of times all the evidence that
 3 I believe shows that there's a hazard.
 4 Q. Here today, have you communicated your
 5 findings or your opinions as a regard -- with regard
 6 to the CIR report to CIR?
 7 A. No, I have not.
 8 Q. The public can make a request for a
 9 subsequent review to CIR of an ingredient like talc,
 10 correct?
 11 A. That's possible. They could, yes.
 12 Q. Had you made a request that CIR review
 13 talc again?
 14 A. No, I have not.
 15 Q. Do you have any plans to do so?
 16 A. Not with the situation that exists today
 17 where we know that Johnson & Johnson is no longer
 18 selling talc-based body powder and also has
 19 replaced, based on the -- the most recent, is
 20 transitioning away from talc to corn starch, which I
 21 believe is the safer alternative.
 22 Q. You've been testifying in talc cases since
 23 2016, correct?
 24 A. I have.
 25 Q. And between 2016 and when Johnson &

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1 Johnson determined to no longer sell Johnson's Baby
 2 Powder, did you ever make a request to CIR to
 3 re-review talcum powder?
 4 A. No. And the answer I gave you before was
 5 any point in time. No, I have not.
 6 Q. Please look at paragraph 123 of your
 7 report.
 8 A. (Complied.) Yes.
 9 Q. Is there anything with regard to this
 10 paragraph that we did not talk about earlier as it
 11 relates to your opinions on the issue of misbranding
 12 and adulteration?
 13 A. No. Actually, I believe this is bringing
 14 the same concept back. This section -- this
 15 paragraph is -- is occurring in what I call my
 16 "Conclusion" section. So I'm trying to bring out
 17 the big points I think that I have covered in my
 18 report. And so I bring it forward here as well.
 19 Q. Turning back to paragraph 111 of your
 20 report.
 21 A. (Complied.) Almost there. Yes.
 22 Q. You added at the end of this paragraph a
 23 couple lines with regard to corn starch, but you
 24 mentioned previously that that's referenced in your
 25 previous reports.

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1 Why did you add these two lines at
 2 this part of your report then?
 3 A. So it has to do with the fact that -- what
 4 happened in 2022. So I'm updating this paragraph to
 5 link it into the issues with corn starch that --
 6 that have now occurred.
 7 Q. Do you intend to testify that there were
 8 Johnson & Johnson employees as of 2022 who believed
 9 that corn starch was safer than talcum powder?
 10 A. Well, I -- I cannot speak for Johnson &
 11 Johnson employees unless I have a document to speak
 12 to it. I would say that the documents that I have
 13 seen in the past show that they were aware of the
 14 issues.
 15 And, in fact, in the patent
 16 application from the -- the 1950s, they talk about
 17 looking for an alternative to talc based on safety
 18 concerns for patients.
 19 So I -- I mean, again, it's -- it -- I
 20 don't think I'll find the exact statement as you
 21 just stated it. But certainly, I think there are
 22 documents I can point to that are Johnson & Johnson
 23 documents that are consistent with my opinion and
 24 would support the way I'm expressing it.
 25 Q. You made reference earlier to an

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1 April 2022 press release by Johnson & Johnson.
 2 What did that press release say?
 3 A. That they were transitioning to talc
 4 based -- they were transitioning to corn starch for
 5 their body powders.
 6 Q. Did that statement say why they were doing
 7 that?
 8 A. I have need to pull it to answer that.
 9 I'm sure it does. I'm sorry. Got to take a second
 10 to find it. Oh, here it is.
 11 So do you want me to read what they
 12 say, or just tell you that they do give a reason,
 13 yes?
 14 Q. Yeah, what's the reason -- what's the
 15 reason given?
 16 A. They -- well, do you want me to read it?
 17 That might be easiest. I mean, I don't know how
 18 earlier --
 19 Q. Yes, go ahead and read it. Read it.
 20 A. They say that they (as read) "continuously
 21 evaluate and optimize their portfolio for the best
 22 position the business for long-term growth." And
 23 they say, "The transition will help simplify our
 24 product offerings, deliver sustainable innovation,
 25 and meet the needs of our consumers, customers and

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1 evolving global trends."
 2 Q. Do you intend to testify why Johnson &
 3 Johnson made the transition in 2022 beyond what is
 4 stated in that statement?
 5 A. Well, so that's an intent. And I'm not
 6 allowed to talk about intent. I can tell you what
 7 my -- what my opinion is based on what the evidence
 8 shows in that particular point in time. But I can't
 9 talk about their intent. That is -- that is up to
 10 Johnson & Johnson to speak to.
 11 Q. Well, do you intend to say that Johnson &
 12 Johnson may -- took this action because it believes
 13 that corn starch is safer than talcum powder?
 14 A. I would state as I have said right here in
 15 this report. I would say that these -- the actions,
 16 as I go through, by Johnson & Johnson as early as
 17 the '50s indicate the company was aware there was a
 18 safer product.
 19 And I have documents where they talk
 20 about the difference between corn starch and talc.
 21 There's one from the '60s, and there's also the
 22 patent application where they talk about the
 23 comparisons in terms of safety and toxicity.
 24 And then I -- then I say, "Yet, it
 25 wasn't until 2022" that they took the action to

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1 replace it.
 2 Q. Is corn starch safe to use in the perineal
 3 layer?
 4 A. It's -- according to Johnson & Johnson's
 5 own research, they believe it's safer in terms of --
 6 of the adverse tissue reactions to use.
 7 (Speaking simultaneously.)
 8 Q. I did not ask -- I asked --
 9 A. I don't know if that answers your
 10 question.
 11 Q. It did not.
 12 I asked: In your opinion, is corn
 13 starch body powder safe to use in the perineal area?
 14 A. I haven't done a full evaluation of corn
 15 starch other than to tell you it definitely is safer
 16 than talc in terms of the tissue toxicity
 17 comparisons that we have and the fact that it can be
 18 absorbed into -- other than sit in the tissue.
 19 So from that aspect, I would, yes, I
 20 believe my evaluation shows that it's a safer
 21 alternative.
 22 Q. I didn't ask you that question.
 23 My question is: Do you have an
 24 opinion as to whether corn starch body powder is
 25 safe to use in the perineal area?

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1 A. I already answered that for you. I
 2 thought I did. I told you that --
 3 Q. Well, you --
 4 A. My opinion is -- well, I'm stating for you
 5 the opinion as I would expect to express it. My --
 6 my opinion would be that the replacement of corn
 7 starch in the talc-based body powders, which were
 8 being used -- which can be used perineal, are a
 9 safer -- or are safer for the -- for the person
 10 who's using them. It's a safer alternative to talc.
 11 Q. I'm not asking you if it's a safe --
 12 A. All of the -- all -- all exposures can
 13 have risks. But in the terms of ovarian cancer
 14 risk, what we know about -- about corn starch, I
 15 believe there's a difference, a big difference,
 16 between what we know about corn starch and what we
 17 know about talc.
 18 But my risk assessment and safety
 19 assessments have focused on the hazards and the
 20 actions of the company around talc itself.
 21 Q. Does use of corn starch in the perineal
 22 area increase the risk of ovarian cancer?
 23 A. None of the data that I have seen
 24 indicated that it does based upon the literature
 25 that's out there.

<p style="text-align: right;">Page 158</p> <p>1 Q. Can corn starch cause inflammation if it 2 reaches the ovaries? 3 A. If it was to reach -- could -- you asked 4 me could -- could it? 5 Q. Yes. 6 A. I don't know. I haven't looked to see 7 whether there is any literature to show that it -- 8 that it would do that. I would argue that -- being 9 that it's absorbed and doesn't sit on the surface 10 like a particle that I believe it would not. You're 11 asking for things that were beyond the -- the scope 12 of what I did at this point in time. 13 Q. Can corn starch cause inflammation if it 14 reaches the abdominal cavity? 15 A. All powders can cause inflammation if the 16 powder particles are sitting within the abdominal 17 cavity. But that -- but as far as corn starch, it 18 tends to be absorbed and doesn't sit as a particle. 19 But corn starch, if you're talking 20 about the global literature, you're exactly right. 21 There's some literature out there that talks about 22 gloves and powders generally, potentially leading to 23 adverse tissue reactions surgically, internally. 24 I -- but I agree with you. That does exist. 25 Q. Just a little bit of housekeeping.</p>	<p style="text-align: right;">Page 160</p> <p>1 THE WITNESS: The paper by -- I'll 2 spell the name for the court reporter -- Phung, 3 P-h-u-n-g, et al., 2022. 4 MR. HEGARTY: Mark that as Exhibit 9. 5 (Exhibit 9 marked.) 6 THE WITNESS: And I have attached -- 7 just to be clear, I have attached to that the 8 supplemental materials, too, as one file. 9 MR. HEGARTY: Okay. 10 THE WITNESS: The Davis paper -- 11 Colette Davis paper from 2021. 12 MR. HEGARTY: We'll mark that as 13 Exhibit 10. 14 (Exhibit 10 marked.) 15 THE WITNESS: The Emi paper from 2021. 16 MR. HEGARTY: Mark that as Exhibit 11. 17 (Exhibit 11 marked.) 18 THE WITNESS: A paper by Wentzensen 19 and O'Brien dated 20 -- I'm not sure. 2021, I'm 20 sorry. 21 MR. HEGARTY: Mark that Exhibit 12. 22 (Exhibit 12 marked.) 23 THE WITNESS: The printout of the 24 FDA's website of the "Compliance Policy Guide for 25 Facilities" dated November 2023.</p>
<p style="text-align: right;">Page 159</p> <p>1 Tell me again or walk me through again 2 each of the documents that you brought with you to 3 today's deposition. I want to designate each one as 4 an exhibit. 5 A. Are you gonna do them individually or -- 6 or together? 7 Q. Individually. Individually. 8 A. Okay. So I -- I have them mixed up. So 9 I'm just -- they're just gonna go in my pile. 10 Is that all right? 11 Q. That's fine. 12 THE WITNESS: Okay. So the EPA 13 Federal Registry Notice. 14 MR. HEGARTY: We'll mark that as 15 Exhibit 6. 16 (Exhibit 6 marked.) 17 THE WITNESS: The Johnson & Johnson 18 August 11, 2022, press release. 19 MR. HEGARTY: We'll mark that as 20 Exhibit 7. 21 (Exhibit 7 marked.) 22 THE WITNESS: May 19, 2020, Johnson & 23 Johnson press release. 24 MR. HEGARTY: Mark that as Exhibit 8. 25 (Exhibit 8 marked.)</p>	<p style="text-align: right;">Page 161</p> <p>1 MR. HEGARTY: We'll designate that as 2 Exhibit 13. 3 (Exhibit 13 marked.) 4 THE WITNESS: The paper by -- in 5 British Medical Journal by the author Dyer, D-y-e-r. 6 MR. HEGARTY: Mark that as Exhibit 14. 7 (Exhibit 14 marked.) 8 THE WITNESS: The paper by Goodman, 9 et al., 2020. 10 MR. HEGARTY: We'll designate that as 11 Exhibit 15. 12 (Exhibit 15 marked.) 13 THE WITNESS: The paper by Lynch, 14 et al., from 2023. 15 MR. HEGARTY: Designate that as 16 Exhibit 16. 17 (Exhibit 16 marked.) 18 THE WITNESS: The paper by Micha, 19 et al., 2022. 20 MR. HEGARTY: Designate that as 21 Exhibit 17. 22 (Exhibit 17 marked.) 23 THE WITNESS: The paper by Harper, 24 et al., 2023. 25 MR. HEGARTY: Designate that as</p>

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1 Exhibit 18.
 2 (Exhibit 18 marked.)
 3 THE WITNESS: A paper by Ding, et al.,
 4 2021.
 5 MR. HEGARTY: Designate that as
 6 Exhibit 19.
 7 (Exhibit 19 marked.)
 8 THE WITNESS: The paper by O'Brien and
 9 JAMA in 2020.
 10 MR. HEGARTY: We'll designate that as
 11 Exhibit 20.
 12 (Exhibit 20 marked.)
 13 THE WITNESS: And the paper by Woolen,
 14 et al., 2022.
 15 MR. HEGARTY: We'll designate that as
 16 Exhibit 21.
 17 (Exhibit 21 marked.)
 18 THE WITNESS: And let me see if I've
 19 gotten all of it.
 20 MR. HEGARTY: You also have your
 21 reports, your reliance list, those types of things?
 22 THE WITNESS: Yes, I think that's all
 23 the publications or papers or documents other than
 24 my report and reliance materials.
 25 MR. HEGARTY: Let's designate your

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1 report that you have with you that you've marked on
 2 as Exhibit 22.
 3 (Exhibit 22 marked.)
 4 MR. HEGARTY: You also said you
 5 brought your reliance list; is that correct?
 6 THE WITNESS: Yeah -- well, no. I
 7 didn't bring the whole reliance list. I brought
 8 pages that were changed. So if you want to mark
 9 that as an exhibit.
 10 Do you want me to tell you what pages
 11 it was?
 12 MR. HEGARTY: No. No, we'll just mark
 13 that as Exhibit 23.
 14 (Exhibit 23 marked.)
 15 MR. HEGARTY: What other papers,
 16 documents do you have with you that we had not just
 17 gone through and marked as exhibits?
 18 THE WITNESS: I brought my bills.
 19 MR. HEGARTY: We'll mark those as
 20 Exhibit 24.
 21 (Exhibit 24 marked.)
 22 THE WITNESS: I brought a copy of my
 23 CV, which you have, but I brought a copy of it.
 24 MR. HEGARTY: Mark that as Exhibit 25.
 25 (Exhibit 25 marked.)

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1 THE WITNESS: And I brought the
 2 page -- selected pages from my 2017 deposition on
 3 three different days that discuss misbranding.
 4 MR. HEGARTY: So we'll mark that as
 5 Exhibit 26.
 6 (Exhibit 26 marked.)
 7 THE WITNESS: And -- oh, I brought
 8 the -- the notice for the deposition.
 9 MR. HEGARTY: And we'll mark that
 10 notice as Exhibit 27.
 11 (Exhibit 27 marked.)
 12 BY MR. HEGARTY:
 13 Q. And do you have that notice with you as
 14 you read this?
 15 A. Yes.
 16 Q. Have you read through all of the
 17 paragraphs in that notice?
 18 A. I have.
 19 Q. Have you seen the plaintiffs' objections
 20 and their responses to that notice?
 21 A. No. I talked about it with them, about it
 22 in terms of what I had and what I didn't have. But
 23 I did not see that document.
 24 Q. And have you provided the documents that
 25 you have that are described in these paragraphs

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1 subject to the objections that -- that had been
 2 asserted?
 3 A. Yes.
 4 Q. Another document I have not mentioned
 5 previously was Appendix D, "Chemicals in the
 6 Johnson & Johnson Body Powder Fragrant With Irritant
 7 Properties."
 8 Do you have a copy of that document,
 9 or is that attached to your -- to the report you
 10 brought with you?
 11 A. I don't have that attached, no, because
 12 there were no changes to that. So I didn't --
 13 didn't print it out.
 14 Q. That was gonna be my next question.
 15 Did you make any changes to Appendix D
 16 to your amended report?
 17 A. No, I did not.
 18 Q. And with regard to the articles we just
 19 went through, besides those we've talked about that
 20 you referenced in your report -- that's Harper, Emi,
 21 Ding, O'Brien, Woolen, Davis, and Phung -- do you
 22 intend to make reference to or otherwise comment on
 23 those articles as part of your opinions in this
 24 case?
 25 A. It depends upon what questions are asked

<p style="text-align: right;">Page 166</p> <p>1 at trial. I don't -- I can't predict that. I mean,</p> <p>2 I would be prepared to do that if counsel asks</p> <p>3 questions consistent with how I have described or</p> <p>4 used the papers in my report.</p> <p>5 Q. You did not specifically reference that</p> <p>6 other set of papers in your report, correct?</p> <p>7 A. The others that we -- you didn't just</p> <p>8 list, that is correct.</p> <p>9 Q. Why did you not do that? In other words,</p> <p>10 why are those different than the ones you included</p> <p>11 in your report?</p> <p>12 A. Well, some of them are ones that I felt</p> <p>13 like were beyond the scope of what I was asked to</p> <p>14 do. In other words, I'm not a causation expert. So</p> <p>15 my goal was not to find every paper, for example,</p> <p>16 that might be used by a causation expert to -- to</p> <p>17 build a story for causation. So that explains some</p> <p>18 of the papers.</p> <p>19 I've already talked about the Goodman</p> <p>20 paper at -- at -- actually at length, I thought,</p> <p>21 with Ms. Davidson in my earlier testimony. And I --</p> <p>22 again, it's a -- it's a review paper of someone else</p> <p>23 doing causation. So that's beyond the scope of --</p> <p>24 of, you know, again, what I -- what I am doing.</p> <p>25 And one thing that I -- we didn't</p>	<p style="text-align: right;">Page 168</p> <p>1 when I edited it, I dropped the dates for the -- for</p> <p>2 depositions.</p> <p>3 And so if there's confusion, you want</p> <p>4 me to tell you what those are so that you'll know?</p> <p>5 They were in my original report</p> <p>6 from -- well -- and they were in the June 2021</p> <p>7 report cited properly, but for some reason, the</p> <p>8 dates got dropped.</p> <p>9 Q. Let me ask it in a different way.</p> <p>10 Are there any additional authorities</p> <p>11 or citations in support of your opinions that you</p> <p>12 have referenced in your second amended MDL report</p> <p>13 that we have not talked about here today?</p> <p>14 A. No, I believe we've gone through all of</p> <p>15 those.</p> <p>16 MR. HEGARTY: Let's go off the record.</p> <p>17 THE COURT REPORTER: Off the record at</p> <p>18 12:41 p.m.</p> <p>19 (A recess was taken from 12:41 p.m. to</p> <p>20 12:57 p.m.)</p> <p>21 THE COURT REPORTER: We're back on the</p> <p>22 record at 12:57 p.m.</p> <p>23 BY MR. HEGARTY:</p> <p>24 Q. Going back to paragraph 29 of your report,</p> <p>25 Dr. Plunkett, where you made reference to EPA's</p>
<p style="text-align: right;">Page 167</p> <p>1 mention, the ones that we just listed, the published</p> <p>2 articles, you should also mention the EPA document</p> <p>3 because that one is actually discussed specifically</p> <p>4 in my -- in my report.</p> <p>5 Q. Okay.</p> <p>6 A. So if asked about that one, I would be</p> <p>7 prepared to address that.</p> <p>8 Q. You mentioned that you marked in your</p> <p>9 report the substantive areas of changes from your</p> <p>10 previous MDL report.</p> <p>11 Do you recall telling me that?</p> <p>12 A. Actually, I tried to mark everything that</p> <p>13 was different, even a one-word change. Like on the</p> <p>14 first page, I highlighted the word "second," and I</p> <p>15 highlighted the date. So, yeah, I tried -- I</p> <p>16 attempted to do that, yes.</p> <p>17 Q. Are there any changes that to -- let me --</p> <p>18 let me restate that.</p> <p>19 Are there any additions to your</p> <p>20 testimony, from a substantive standpoint, that you</p> <p>21 have marked in your report that we have not talked</p> <p>22 about?</p> <p>23 A. So there is the typo I gave you on Harper.</p> <p>24 It should be 2023, not 2021. And there are two</p> <p>25 places, I believe, in my report. For some reason</p>	<p style="text-align: right;">Page 169</p> <p>1 "proposed" and then "final" rule?</p> <p>2 A. (Complied.) Yes.</p> <p>3 Q. Are you there?</p> <p>4 A. I am.</p> <p>5 Q. As for lung and mesothelioma risks</p> <p>6 reported by EPA in its risk evaluation, would use of</p> <p>7 Johnson's Baby Powder reach the levels discussed by</p> <p>8 FDA in that risk evaluation?</p> <p>9 A. I haven't done that analysis because I</p> <p>10 haven't done an analysis of mesothelioma risk.</p> <p>11 But do you want me to look and see</p> <p>12 what they say? I'd -- I'd have stop and go back and</p> <p>13 look.</p> <p>14 Q. I'm not sure we're connecting.</p> <p>15 With regard to my question, as far as</p> <p>16 the asbestos levels evaluated by EPA in its risk</p> <p>17 evaluation, would a user of Johnson's Baby Powder</p> <p>18 ever reach those -- that level of asbestos through</p> <p>19 use?</p> <p>20 A. And I'm at -- I'm saying that I -- it's</p> <p>21 beyond the scope of what I have done. But I would</p> <p>22 have to go look and see if they have any statements.</p> <p>23 I can't recall that.</p> <p>24 I did not do -- I'm not a case-</p> <p>25 specific person, so I wasn't gonna do an exposure</p>

<p style="text-align: right;">Page 170</p> <p>1 assessment. And if you're asking me about -- you're 2 asking me about inhalation pathway, that's beyond 3 the scope of the work I've done for sure. 4 Q. But do you know if any user of Johnson's 5 Baby Powder has ever been exposed to the levels and 6 types of asbestos as EPA discusses in its risk 7 evaluation document? 8 A. It's beyond the scope of what I did. But 9 I can -- what I can tell you is we do know that in 10 the trials I've been involved in, that users of baby 11 powder have detectable levels of not only talc 12 fibers, but some of them asbestos, in their tissues 13 of their ovarian tumors. That's all I can tell you. 14 I -- I -- it's beyond the scope of what I did. 15 Q. We talked earlier about the Woolen 16 article, and you also were asked about the Woolen 17 article at your October 2023 deposition. 18 Do you recall that? 19 A. Yes. 20 Q. I'm not sure if I asked you this question, 21 and I apologize if I already have. 22 Have you done any further analysis of 23 the Woolen paper since your October 2023 deposition? 24 A. Excuse me. No. Other than to use it and 25 write the sentence -- I mean, I did compose a</p>	<p style="text-align: right;">Page 172</p> <p>1 time. 2 A. That's what I'm trying to answer for you. 3 I obviously hadn't decided at the time how I was 4 going to describe it in my report. So that's -- I 5 mean, I don't know if that's an opinion. But that 6 is what is stated in my report is how I describe it. 7 I think that opinion I expressed at the time is 8 consistent with what is in my report. So I guess it 9 is not new. 10 Q. Is that opinion -- are the opinions that 11 you testified in October 2023 consistent with what 12 you told me today about your opinions concerning the 13 Woolen study? 14 A. Well, I said more -- different things, I'm 15 sure. But, yes, I think it's consistent. I mean, I 16 don't require -- I don't remember the exact -- I 17 answered a number of very specific questions from 18 Ms. Davidson about the paper. 19 And so obviously you haven't asked 20 those same ones. But, I mean, I -- I don't -- I 21 wouldn't -- there's nothing else I would add. Maybe 22 that's the way to answer it for you. 23 Q. Do you have any intent -- intention here 24 today to do any further analysis of the reviewer 25 comments to the Harper paper than you made at the</p>
<p style="text-align: right;">Page 171</p> <p>1 sentence on it to put in my report. So -- and that 2 was after my depo, I decided how to describe it. 3 So that I did do, as far as made a 4 decision how I would describe the results. But I 5 didn't do any analysis, if you're asking, or didn't 6 make any phone calls to anybody or discussed the 7 paper with anybody else. No. 8 Q. Let me ask in a little bit different way. 9 Do you have any opinions about the 10 Woolen paper that you have developed -- that you 11 developed since October -- since your October 2023 12 deposition? In other words, opinions that you 13 didn't have as of that time? 14 A. Only -- only the opinions as -- that I 15 expressed it specifically in my report. How it fits 16 into my report. And then I think I have a sentence 17 if you want me to find it. There's a sentence where 18 I describe the results. 19 Do you want me to find it, or you know 20 where that is? 21 Q. No. My question is a little more general 22 than your report. 23 My question is whether you have formed 24 any opinions as to the Woolen paper since your 25 deposition October 2023 that you didn't have at the</p>	<p style="text-align: right;">Page 173</p> <p>1 time of your October 2023 deposition? 2 A. No, because I consider that inappropriate 3 based on the fact that those are confidential 4 comments between the reviewers and the author. And 5 I typically would not do that. So I haven't planned 6 to -- I don't think I even have a -- I don't even 7 have a copy of those. I mean, maybe they were 8 marked as an exhibit to the depo, but I -- I don't 9 have those. 10 Q. Have there been any studies that have been 11 published in the medical literature since August 12 of 2021 that included findings that did not show an 13 association between talc use in any type of ovarian 14 cancer? 15 A. Are you asking me for epidemiological 16 studies? What are you asking me for? So I -- 17 Q. I'll be more specific. Epidemiologic 18 studies. 19 A. So I -- I need my pile of papers back. I 20 think that's the -- maybe -- let me look at one of 21 the ones that's in my pile. (Examined exhibit.) 22 No, the ones that I have in my pile are not 23 individual studies. There are some -- some review 24 papers but not individual studies. 25 Q. So are your notes about --</p>

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1 A. So I can't -- I did not do -- I did not do
 2 it -- again, I wasn't a causation expert, so I
 3 wasn't attempting to identify every study out there.
 4 I'm aware of the fact that there was some positive,
 5 and I've testified to this.
 6 There are some positive epi. There's
 7 some negative epi. But that's -- I believe that
 8 is -- is the additional information around that
 9 would be something that the epidemiologist would
 10 address.
 11 Q. Since August of 2021, have you done any
 12 research or analysis into the creation of the NCI
 13 PDQ® on ovarian cancer?
 14 A. I don't believe I've done that since
 15 August of 2- -- of 2021. I know we did do that and
 16 talked about that at trial before that time.
 17 Q. Since August of 2021, have you done any
 18 research or analysis into the editorial boards for
 19 the NCI PDQ®?
 20 A. I don't think there's been anything since
 21 then. But I -- again, that's something that we did
 22 talk about at trial and maybe even in an earlier
 23 deposition. I don't know. I don't recall anything
 24 that I've done since August of 2021 in that.
 25 Q. Have you done any type of work with

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1 respect to the NCI PDQ® and its -- in terms of
 2 evaluating it and otherwise assessing it since
 3 August 2021?
 4 A. I have looked at it. I have looked at
 5 them on the -- I mean, I've gone and looked at
 6 different websites since then, yes.
 7 Q. Do you have any current opinions about the
 8 NCI PDQ® that you have not previously testified to?
 9 A. I don't think so. I mean -- I mean, I
 10 would be prepared to testify as I have in the past.
 11 And I haven't cited any new documents at this point.
 12 So I'd say that my previous testimony,
 13 I would have -- be prepared to testify as I did in
 14 the past because my issues with it have been mainly
 15 related with the changes that occurred in, what,
 16 2014 and --
 17 (Speaking simultaneously.)
 18 Q. And I'm not asking for anything you've
 19 already said or anything you have already testified
 20 to or reported.
 21 My question is really limited to:
 22 Sitting here today, are you aware of anything else
 23 you would -- you would say about the NCI PDQ® that
 24 you have not previously said?
 25 A. I don't believe so, no.

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1 Q. All right. Turn to paragraph 110.
 2 A. (Complied.) Okay.
 3 Q. You added a reference in this paragraph
 4 to -- that added to your statements about other
 5 manufacturers' talc-based body powders and adding
 6 warnings to their labels.
 7 Do you see that addition?
 8 A. Yes, that was something that I had
 9 testified to at trial.
 10 Q. Since August of 2021, have you reviewed
 11 any additional manufacturers' labels of any talcum
 12 powder product for any warnings with regard to
 13 ovarian cancer?
 14 A. I have -- every time I go out to the
 15 store, I do look at -- at what I can find on the
 16 shelf. But it's not been a directed review in terms
 17 of like I did back then where I was going to find as
 18 many products as I could in looking at websites and
 19 trying to determine when things were added.
 20 Q. Since August of -- I'm sorry.
 21 A. So not -- I could say to you, no, it would
 22 probably be different other than having, you know,
 23 aware of the fact that there are products that still
 24 carry a label.
 25 Q. Since August 2021, have you found any

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1 additional talcum powder products that contain a
 2 warning with regard to ovarian cancer besides what
 3 you list in your second amended report?
 4 A. I don't believe so, no.
 5 Q. Since August of 2021, have you done any
 6 additional research, analysis, or undertaken any
 7 effort to determine the reasoning for each
 8 manufacturer's addition of any warning referring to
 9 ovarian cancer to their talcum powder product label?
 10 A. I looked for -- well, back in -- before
 11 2021, I looked for publicly available information
 12 and didn't find such. I haven't done any -- for
 13 example, I don't have -- I don't have -- haven't
 14 done -- or the attorneys I've worked with, I
 15 don't -- I'm not aware of them having done discovery
 16 or subpoenas or anything to try to get information.
 17 So, no, I -- I have no additional
 18 research I've done because I don't have access to
 19 where that information would come from, which would
 20 be typically internal company files.
 21 Q. You were asked at, I believe, the Giese
 22 trial about websites looking for these
 23 manufacturers.
 24 Do you recall that?
 25 A. I don't -- sorry, I don't remember a

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1 discussion at the Giese trial. But if you -- I
 2 mean, I believe you that we probably -- we discussed
 3 it at every trial. So I'm sure we did do something
 4 like that.
 5 Q. Turn to paragraph 117, please.
 6 A. (Complied.) Yes, I'm there.
 7 Q. The footnote at the end of that paragraph
 8 is new, Footnote 68.
 9 Why did you add that footnote?
 10 A. Because it's consistent with something
 11 I've said at trial. So I believe at trial when I
 12 was asked about or answered questions either on
 13 direct or cross about CDRH's actions versus
 14 Cosmetics actions, I pointed out that there's
 15 different regulatory authority and different
 16 requirements.
 17 And so I'm just -- there -- again,
 18 this is -- several times in my report, I attempted
 19 to make sure that I included the types of
 20 clarifications or discussion that were specific to
 21 trial testimony as well. And that's one of them.
 22 Q. Well, you go out -- you actually say it's
 23 important to realize that the group at FDA that
 24 banned, et cetera.
 25 Why did you use that language, and how

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1 does that factor into your opinions as referenced in
 2 this paragraph?
 3 A. Because it has to do with the way that
 4 devices are looked at versus -- so it's a different
 5 regulatory standard and different regulatory
 6 authority. So CDRH has the authority and has had
 7 the authority for years to actually ban substances.
 8 And it's a much easier process versus
 9 the rulemaking processes that the cosmetics group
 10 would have to go through. So it's the idea that an
 11 action taken -- and I talk -- I talked about this,
 12 that I know, at trial.
 13 An action taken by CDRH and what they
 14 can and can't do is very different than the -- than
 15 the fact that in the cosmetics world, the -- the
 16 responsibility is solely on the company to make sure
 17 that if there's any possibility of a hazard, that
 18 they either warn or don't have something in their
 19 product. That is their sole responsibility.
 20 Whereas at CDRH, devices have both
 21 risks and benefits. And certain decisions can be
 22 made by -- by companies or by FDA weighing more than
 23 just the risks.
 24 Q. The reason you added this footnote was to
 25 make your report consistent with your testimony in

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1 the past; is that fair?
 2 A. Yes. And I kind of say it -- I -- I kind
 3 of allude to that in that paragraph before I added
 4 that. But I know this is a very specific
 5 description I've had at trial.
 6 So, again, this is another example of
 7 I'm trying to incorporate what I've said at trial to
 8 make it very clear. Although I'm sure, Mr. Hegarty,
 9 you know what my opinion is.
 10 But to make sure that anybody who
 11 reads this report understands that some of the
 12 nuances around some of the statements I make.
 13 Q. The Federal Register you cite states the
 14 following as to the risk addressed. It says, quote,
 15 "In aggregate, the risk of powdered gloves include
 16 severe airway inflammation, hypersensitivity
 17 reactions, allergic reactions (including asthma),
 18 allergic rhinitis, conjunctivitis, dyspnea, as well
 19 as granuloma and adhesion -- adhesion formation when
 20 exposed to internal tissue." Does that -- close
 21 quote.
 22 Does that sound familiar to you?
 23 A. Yes, it does.
 24 Q. And is that a listing of the risks that --
 25 that led to FDA to ban the use of powder on surgical

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1 gloves?
 2 A. I can't -- I can't get to the minds of the
 3 FDA and tell you that that specifically is what led
 4 to it. But I would argue that when you read the --
 5 the notice, that certainly that information you've
 6 just read was part of the -- of the thought process
 7 for why they took the action.
 8 They also had a lot of, actually,
 9 patient adverse experience reports that they talk
 10 about those. I mean, it -- there's a -- and they
 11 also were aware that there was -- there was other --
 12 the -- the gloves didn't have to have the powder on
 13 it.
 14 In other words, there's something you
 15 could do. It's not like you're gonna say, "If we
 16 ban the powder on the gloves, we still can't use
 17 sterile surgical gloves," because you could.
 18 Q. Since August of 2021, as part of your
 19 literature -- you're -- you're keeping yourself
 20 updated as far as literature.
 21 Did you find any articles discussing
 22 asbestos in ovarian cancer? That is, articles you
 23 found for the first time after August 2021?
 24 A. New articles? So I -- I did not do a
 25 directed search on that, although I am aware that

<p style="text-align: right;">Page 182</p> <p>1 some of those exist. And because I've heard them 2 discussed just kind of, you know, in conversation. 3 But I have not, no. I -- there's a -- from my 4 understanding of what's there, there is some 5 literature that causation experts rely upon that is 6 post 2021. 7 Q. And without disclosing any conversation 8 you've had with counsel, what articles are you aware 9 of that exist? 10 A. I don't know the name of the article. I 11 just happen to know that there -- in conversations 12 I've had that there is some additional literature in 13 this area. 14 Q. Same question as to heavy metals: Have 15 you found any articles since August of 2021 that 16 you've not seen before concerning heavy metal 17 exposure and risk of cancer? 18 A. No. And on the heavy metals and actually 19 on the asbestos as well, don't forget that in my 20 discussion of my opinions, the issue is having 21 exposure to the entire mixture, not just to one 22 particular constituent. 23 So the epidemiological literature 24 related to perineal use of talc, it's talc with all 25 the things in it. And the asbestos literature is</p>	<p style="text-align: right;">Page 184</p> <p>1 in my report, I did add a sentence about I would 2 anticipate and plan to look at defense expert 3 reports, if there's any amendments made. So 4 absolutely that is one thing I would plan to do. 5 I would -- I do plan, as I typically 6 do on at least a monthly basis, to continue to watch 7 to see if there's any changes in terms of FDA 8 regulation of cosmetics or anything about talc that 9 FDA puts out. 10 And I do do literature searches, which 11 I will continue to do. Maybe not on a monthly, but 12 every other month basis, to look at what's new 13 that's directly relevant to my report. 14 But it's not like I can say to you, "I 15 plan to amend my report." At this point in time, I 16 have no plans to do that unless something very 17 important or different comes out. 18 Q. Couple additional questions as it relates 19 to the Ding and Emi studies. 20 Do you have Ding and Emi there handy? 21 A. I can get them. Just a second. 22 (Complied.) I have them, yes. 23 Q. Looking first at the Ding study, the first 24 page, there's a reference to -- let me -- let me be 25 specific.</p>
<p style="text-align: right;">Page 183</p> <p>1 important in terms of notice and hazard, absolutely, 2 with my regulatory opinions. 3 But there is different issues if I was 4 doing causation analysis, which I'm not doing. 5 Q. Just to circle -- 6 A. So I haven't done that because I was not 7 doing a causation analysis for -- for a particular 8 constituent only. 9 Q. Just to circle back to the asbestos and 10 ovarian cancer literature that you said you heard 11 about, do you recall anything that you heard about 12 with regard to that asbestos and ovarian cancer 13 literature? 14 A. Not -- no, not as I sit here. No, I 15 just -- I remember there being a conversation about 16 something. 17 Q. Do you have any intent to go and find 18 any -- that article or any other articles as part of 19 your work on the MDL? 20 A. No, I don't at this point in time. 21 Q. Do you have any additional plans, that you 22 know of sitting here today, as far as additional 23 research you're going to do for purposes of your 24 opinions in the MDL? 25 A. I -- I would expect -- as I said earlier</p>	<p style="text-align: right;">Page 185</p> <p>1 You look at the second column, first 2 paragraph on the first page that begins, "Oxidative 3 stress"? 4 A. Yes, I'm there. 5 Q. That paragraph then below lists certain 6 reactive oxygen species. 7 Do you see those -- that listing? 8 A. I do. 9 Q. Are you aware of any studies that look at 10 levels for the reactive oxygen species in women 11 using talcum powder? 12 A. I doubt you can do that study based upon 13 the invasive nature of the study in order to do -- 14 but I am aware that such studies have been done in 15 isolated cell tissues in animals looking at reactive 16 oxygen species. So there is -- there is -- these 17 kinds of studies would typically be done either in 18 cell, tissues, or in animals, not in humans. 19 Q. Are you aware of any animal studies that 20 have looked at these specific reactive oxygen 21 species? That is, those listed in that first 22 paragraph on the right-hand column? 23 A. I'd have to go look, but it's possible. I 24 note some of these are from cells and tissue 25 studies. It's possible that some of the animal</p>

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1 studies may have looked at SODs, superoxide
 2 dismutase levels, enzyme levels. But I don't know
 3 that we've looked at the anions themselves.
 4 Q. And my question was specific as to the
 5 listing of reactive oxygen species on page 1 and
 6 that paragraph on the right-hand side.
 7 It doesn't refer to SOD, right?
 8 A. I don't think -- well, that SOD is what
 9 forms some of these. The activity of that forms
 10 some of those. So I'm just trying to explain that
 11 that's what the endpoint you might find versus the
 12 actual measurement of -- of the species.
 13 But to answer -- I can't answer
 14 without looking at my animal studies. I -- it's
 15 been a while since I've looked at -- at each of them
 16 for all of the endpoints that are there. Some of
 17 them do address this hypothesis, so I'd have to go
 18 look.
 19 Q. If you would next turn to the Emi paper.
 20 A. (Complied.) Okay.
 21 Q. In the Emi paper, did the authors use the
 22 same size of titanium dioxide particles as they used
 23 for talc particles?
 24 A. I've had -- I'll have to look. Just a
 25 second. (Examined exhibit.) No, it has to do with

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1 the source.
 2 Q. Can the size of the particle have an
 3 effect on epigenetic changes in the cell?
 4 A. It can.
 5 Q. What does "methylation" mean?
 6 A. Demethylation, are you asking me? Where
 7 are -- where are you reading?
 8 Q. Well, I'm asking you the term,
 9 methylation, is that not a proper term?
 10 A. Well, methylation -- methylation
 11 versus demethylation, demethylation is -- is
 12 removal of methyl groups. Methylation would be
 13 the addition of methyl groups just generally.
 14 But where are you looking at in this
 15 paper?
 16 Q. What does "demethylation" mean with
 17 respect to the findings in this study?
 18 A. Has to do with changes in DNA, if I
 19 remember correctly, but let me find it.
 20 Q. Well, let me change my question. Let me
 21 withdraw that question.
 22 Did this study find any mutations in
 23 cells?
 24 A. I don't think they looked for that. But
 25 let me look. Where are -- I mean, they were

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1 focusing not on mutagenic events but on
 2 transcription and epigenomic changes, which is
 3 different than mutagenesis. But maybe if there's
 4 something you're -- you're pointing to.
 5 Q. Please look in the abstract towards the
 6 end. This is on the first page. It says, "We found
 7 a few loci where both the transcriptional changes
 8 and epigenetic changes occurred in the pathways
 9 involving immune and inflammatory signaling."
 10 Do you see where I'm reading?
 11 A. I do.
 12 Q. What does that sentence mean, from your
 13 reading of this paper?
 14 A. It's -- so to be simplistic, it means they
 15 found changes in these cells in pathways that are
 16 involved with immune and inflammatory signaling.
 17 And that the endpoints they're looking
 18 at is at the level of the cell as in gene
 19 transcription -- taking the gene and producing a
 20 protein -- or some other -- some other substance.
 21 And then looking at epigenetic changes, they're
 22 looking at changes downstream from that gene
 23 transcription.
 24 So looking at changes within the cell
 25 itself, like the methylation, those kinds of things.

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1 But essentially, to me, the most
 2 important thing in that sentence is telling me what
 3 they found was they found places and changes in the
 4 cells that -- and the -- the changes they were
 5 seeing related to pathways for immune and
 6 inflammatory signaling. Which is consistent with
 7 the things that I've talked about in terms of what
 8 the changes in the macrophages would be and their
 9 inability to -- or either their -- their ability to
 10 release a molecule or attract molecules that are
 11 linked to inflammation and immune system changes or
 12 their inability to function properly to engulf
 13 particles and remove them from the site of action.
 14 Q. From your reading of this paper, what did
 15 the authors mean when they say a "few loci"?
 16 A. Well, looking at places, so they're --
 17 they have a very specific analytical method where
 18 they're looking at different clusters of changes,
 19 and they're finding the places where those changes
 20 are occurring in the genome.
 21 So it's -- it's an idea of mapping,
 22 right? They do some mapping, and they're looking --
 23 in those places, they're finding some of these
 24 changes are places that are related to inflammation
 25 and -- and inflammatory signaling pathways.

<p style="text-align: right;">Page 190</p> <p>1 So things that when you alter those</p> <p>2 locations in the genome, you could get functional</p> <p>3 changes potentially in the cells as well.</p> <p>4 Q. Did the authors quantify the -- what they</p> <p>5 characterize as "few loci"?</p> <p>6 A. I have to look. I don't know. That's a</p> <p>7 detail I can't tell you without rereading the paper.</p> <p>8 If you -- if there -- if you want me to do that, I</p> <p>9 can take a minute to do that.</p> <p>10 Q. Well, in the -- in stating -- in staying</p> <p>11 within the abstract, it refers to the author as</p> <p>12 using "epigenome-wide bisulphite sequencing."</p> <p>13 Do you see that?</p> <p>14 A. Looking at DNA methylation, yeah. The way</p> <p>15 they looked at it, yes. That's correct.</p> <p>16 Q. What is "epigenome-wide bisulphite</p> <p>17 sequencing"?</p> <p>18 A. So that's looked across the genome of the</p> <p>19 cell. And they're looking for, again, patterns in</p> <p>20 the sequencing and whether or not they have these --</p> <p>21 bisulphite sequencing crossed it has to do with</p> <p>22 changes that would be related to methylation</p> <p>23 patterns of the genome -- of the genes.</p> <p>24 MR. HEGARTY: Let's go off the record.</p> <p>25 THE COURT REPORTER: We're off the</p>	<p style="text-align: right;">Page 192</p> <p>1 literature on that issue of if you change</p> <p>2 proliferation profiles, you can lead to something</p> <p>3 different.</p> <p>4 But, no, these are different</p> <p>5 endpoints. These are not cancer endpoints. And</p> <p>6 this glove literature is talking about more of the</p> <p>7 acute responses that you get with surgical exposure</p> <p>8 to powder on gloves. Or to the physician's exposure</p> <p>9 to the gloves. Or the nurses in the -- in the suite</p> <p>10 exposure to the powder on the gloves when they take</p> <p>11 the gloves out of the box and put them on and off</p> <p>12 and -- and doff and don and all those things.</p> <p>13 So it's different. It's a different --</p> <p>14 definitely a different endpoint. It's a different</p> <p>15 exposure pattern. All those things that would occur</p> <p>16 based upon a different way being exposed than we're</p> <p>17 talking about here with ovarian cancer and perineal</p> <p>18 exposure to talc.</p> <p>19 Q. Please look at paragraph -- again at</p> <p>20 paragraph 111 of your report.</p> <p>21 A. (Complied.) Okay.</p> <p>22 Q. Again, looking at the last couple of lines</p> <p>23 that you added to that paragraph beginning, "These</p> <p>24 actions by Johnson & Johnson"; do you see those two</p> <p>25 sentences?</p>
<p style="text-align: right;">Page 191</p> <p>1 record at 1:25 p.m.</p> <p>2 (A recess was taken from 1:25 p.m. to</p> <p>3 1:26 p.m.)</p> <p>4 THE COURT REPORTER: We're back on the</p> <p>5 record at 1:26 p.m.</p> <p>6 BY MR. HEGARTY:</p> <p>7 Q. Going back to your report at paragraph 117</p> <p>8 where we were talking about the footnote that you</p> <p>9 added?</p> <p>10 A. Yes.</p> <p>11 Q. I read to you a list of conditions</p> <p>12 referenced by FDA. Those are airway inflammation</p> <p>13 hypersensitivity reactions, allergic reactions</p> <p>14 (including asthma), allergic rhinitis, conjuncti-</p> <p>15 vitis, dyspnea, granuloma, adhesion formation.</p> <p>16 Can you cite any medical or scientific</p> <p>17 literature linking any of those conditions to</p> <p>18 ovarian cancer?</p> <p>19 A. Before adhesions, what did you list?</p> <p>20 Q. Granuloma.</p> <p>21 A. So granuloma is -- granuloma is not a --</p> <p>22 is not an ovarian cancer response. But granulomas</p> <p>23 are changes in tissue leading to proliferative</p> <p>24 changes, which could, in some cases, be a lead to</p> <p>25 changes in nearby cells to -- there's some</p>	<p style="text-align: right;">Page 193</p> <p>1 A. Yes.</p> <p>2 Q. And with regard to the reference to</p> <p>3 Johnson & Johnson being aware that -- that corn</p> <p>4 starch was a safer alternative product, what was</p> <p>5 that awareness as far as how it was safer?</p> <p>6 A. Because it was a product that wasn't</p> <p>7 associated with the toxic tissue responses that --</p> <p>8 that the company was aware of.</p> <p>9 So there you go back to -- let me see</p> <p>10 what document is in this paragraph I'm talking</p> <p>11 about. Hold on a second.</p> <p>12 So above, I had talked about internal</p> <p>13 corporate documents earlier. But now I'm talking</p> <p>14 about the 1964 memo where they say that in -- in</p> <p>15 condoms, corn starch replaced talc because it was</p> <p>16 found to be safely absorbed when talc was not.</p> <p>17 So that's the issue of -- of a safety</p> <p>18 profile. Something that can be removed away from</p> <p>19 the site. It isn't gonna lead to a long-term</p> <p>20 irritative response or even exposure beyond the</p> <p>21 vagina, which is what they're talking about there.</p> <p>22 In the next one, they're talking --</p> <p>23 it's an internal document where they're talking</p> <p>24 about evidence that they -- they followed. And then</p> <p>25 in this particular memorandum, they say that that --</p>

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1 they talk about the -- their concern over the
 2 conclusions drawn.
 3 So, I mean, I'm -- I'm pointing you to
 4 a variety of bullets that are gonna -- oh, I'm
 5 sorry. I'm on paragraph -- wrong paragraph. I
 6 apologize.
 7 Q. Yeah, I was trying to follow where you
 8 were on, where you were on.
 9 A. Yeah, I know. I'm sorry. I -- I put this
 10 together in a backwards way. Okay. Here we go.
 11 I'm sorry.
 12 So we're in 111; is that correct?
 13 Q. Yes. And to be -- and perhaps focus your
 14 response, you made a reference to a phrase called
 15 "toxic tissue responses" to how Johnson & Johnson
 16 believed corn starch was safer. It was a safer
 17 alternative.
 18 What do you mean by "toxic tissue
 19 response"?
 20 A. So that comes from the 1953 patent
 21 application where they talk about the toxic tissue
 22 reactions to talc versus corn starch. And that's
 23 why they developed an alternative and patented an
 24 alternative dusting powder internally for its --
 25 it -- how -- how the tissue internally reacted to

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1 it.
 2 So that's what I'm talking about in
 3 the first part of paragraph 111. I also cite to a
 4 variety of documents. And if you look at -- and
 5 I -- I -- by looking at the numbers, I can't tell
 6 you which ones they are.
 7 But there's a number of documents
 8 in -- in this period of time in the '60s and '70s
 9 where the company is looking to replace talc with
 10 corn starch.
 11 And they -- they are doing the --
 12 they're doing that type of research. And we have
 13 that statement from '64 with the safe absorption in
 14 the vagina where talc is not, right? So that --
 15 that also kind of goes back to where I'm going.
 16 And then I -- I go on here then into
 17 this -- the FDA OTC Monograph where corn starch is
 18 listed as GRASE for use in OTC being -- and it was
 19 noted to be "superior to talc in terms of safety and
 20 efficacy." And I refer to documents there.
 21 So, I mean, I don't know. This
 22 paragraph speaks for itself. So I point to the
 23 evidence above as to why I believe I'm saying to you
 24 in that paragraph later on that these actions by --
 25 that they took to -- to study it.

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1 To do the things on synthetic talc
 2 that they were looking at, as well as on corn starch
 3 as a replacement indicate they were aware that there
 4 was safer -- there was a safer alternative product.
 5 And corn starch was something they
 6 were looking at over and over again.
 7 Q. Do you have any additional comments or
 8 testimony about the amendments to your last report
 9 that you had anticipated talking about or planned on
 10 talking about or expected to talk about that we have
 11 not discussed today?
 12 A. I don't think I understand your question.
 13 Are you asking me just I'm -- I'm not
 14 going to be -- might be long.
 15 You're asking me is there anything --
 16 Q. You can repeat it back to me.
 17 A. Okay. Is there anything that you -- we
 18 have talked -- we haven't talked about today that I
 19 would expect to talk about based upon what is in my
 20 report? Is that what you're asking me?
 21 Q. That's another way to phrase my question.
 22 A. Okay. I think we've covered what I had --
 23 had anticipated covering. And we've -- I think
 24 you've been through almost every change I made. And
 25 I've talked to you about it.

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1 The only thing you missed is, like I
 2 told you, there are a couple of places where I have
 3 left out dates that go to depositions. So if you
 4 have any question, that will be in this copy of
 5 exhibit that I'm gonna send you. I handwrote those
 6 in.
 7 Q. And would you just take a moment with our
 8 last time to just flip through the highlighted
 9 portions of your -- of your report, which I -- I
 10 don't have the opportunity to see. And just confirm
 11 that, as far as any substantive areas of your
 12 testimony -- of your report, that we -- you added,
 13 that whether there's any of those we haven't talked
 14 about.
 15 A. (Examined exhibits.) So I would just -- I
 16 will just point out that at page 58, paragraph 75, I
 17 think I've said all these things that are in this
 18 paragraph where I mentioned specifically a sentence
 19 about Davis, one about Woolen, about -- one about
 20 Phung. But I would make sure you know that -- that
 21 those are my opinion.
 22 Q. I did not stop at that paragraph because I
 23 believe we had covered those opinions elsewhere.
 24 Is that a fair statement?
 25 A. Yes, I think we have. But I just -- that

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1 was the paragraph I was -- that I said to you
 2 earlier, "I think I can find it for you," that was
 3 it.
 4 (Examined exhibits.) No, I think
 5 we've covered everything that I had highlighted.
 6 We've touched on it or I've -- or you have -- you've
 7 gone there or I've said it's there, so ...
 8 Q. Okay.
 9 MR. HEGARTY: Those are all the
 10 questions I have for you, then, Doctor.
 11 Thank you.
 12 MR. MEADOWS: Mark, if you'll give me
 13 about five minutes.
 14 MR. HEGARTY: Sure.
 15 MR. MEADOWS: I may have some
 16 questions. I may not, but ...
 17 MR. HEGARTY: Okay. All right.
 18 Thank you.
 19 THE COURT REPORTER: All right. We're
 20 off the record at 1:37 p.m.
 21 (A recess was taken from 1:37 p.m. to
 22 1:40 p.m.)
 23 THE COURT REPORTER: We're back on the
 24 record at 1:40 p.m.
 25 Go ahead and close us out, Ted.

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1 MR. MEADOWS: No questions on behalf
 2 of plaintiffs.
 3 I do think that Dr. Plunkett, in her
 4 typical practice, is to read and sign, so ...
 5 THE WITNESS: Yes, I would like to,
 6 please.
 7 THE COURT REPORTER: Yes, ma'am. I'll
 8 notify the office.
 9 And, Mr. Meadows, would you like a
 10 copy?
 11 MR. MEADOWS: Yes, I would like a
 12 copy.
 13 MR. HEGARTY: All right. Well, thank
 14 you, everyone.
 15 THE COURT REPORTER: Thank you. With
 16 that, that concludes our deposition at 1:40 p.m.
 17
 18 (Remote deposition concluded at
 19 1:40 p.m., December 21, 2023.)
 20
 21
 22
 23
 24
 25

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1 CHANGES AND SIGNATURE
 2 WITNESS NAME: LAURA MASSEY PLUNKETT, PH.D.
 3 DATE: DECEMBER 21, 2023
 4 PAGE/LINE CHANGE REASON
 5 _____
 6 _____
 7 _____
 8 _____
 9 _____
 10 _____
 11 _____
 12 _____
 13 _____
 14 _____
 15 _____
 16 _____
 17 _____
 18 _____
 19 _____
 20 _____
 21 _____
 22 _____
 23 _____
 24 _____
 25 _____

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1 I, LAURA MASSEY PLUNKETT, PH.D., have read the
 2 foregoing deposition and hereby affix my signature
 3 that same is true and correct, except as noted
 4 above.
 5
 6 _____
 7 LAURA MASSEY PLUNKETT, PH.D.
 8
 9 THE STATE OF _____
 10 COUNTY OF _____
 11 Before me, _____, on
 12 this day personally appeared LAURA MASSEY PLUNKETT,
 13 PH.D., known to me (or proved to me under oath or
 14 through _____) (description of
 15 identity card or other document) to be the person
 16 whose name is subscribed to the foregoing instrument
 17 and acknowledged to me that they executed the same
 18 for the purposes and consideration therein
 19 expressed.
 20 Given under my hand and seal of office this
 21 _____ day of _____, 2023.
 22
 23 _____
 24 NOTARY PUBLIC IN AND FOR
 25 THE STATE OF _____

<p style="text-align: right;">Page 202</p> <p>1 IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY</p> <p>2 IN RE JOHNSON & JOHNSON § 3 TALCUM POWDER PRODUCTS § MDL NO.: MARKETING, SALES § 4 PRACTICES, AND PRODUCTS § 16-2738(MAS)(RLS) LIABILITY LITIGATION §</p> <p>5 *****</p> <p>6</p> <p>7 REMOTE VIDEOCONFERENCED DEPOSITION OF 8 LAURA MASSEY PLUNKETT, PH.D. 9 10 DECEMBER 21, 2023 11 *****</p> <p>12</p> <p>13 CERTIFIED STENOGRAPHIC 14 COURT REPORTER'S CERTIFICATE</p> <p>15</p> <p>16 I, Karen L. D. Schoeve, RDR, CRR, RSA, 17 residing in the State of Texas, do hereby certify 18 that the foregoing proceedings were reported 19 remotely by me and that the foregoing transcript 20 constitutes a full, true, and correct transcription 21 of my stenographic notes, to the best of my ability 22 and hereby certify to the following: 23 By agreement of all attending attorneys, the 24 witness, LAURA MASSEY PLUNKETT, PH.D., was remotely 25 duly sworn by the officer and that the transcript of</p>	<p style="text-align: right;">Page 204</p> <p>1 FOR THE DEFENDANTS: 2 MARK C. HEGARTY, ESQUIRE 3 SHOOK, HARDY & BACON L.L.P. 4 I further certify that I am neither counsel 5 for, related to, nor employed by any of the parties 6 in the action in which this proceeding was taken, 7 and further that I am not financially or otherwise 8 interested in the outcome of the action. 9 10 Subscribed and sworn to on this the 7th day of 11 January, 2024. 12 13 14 15 16 17 Karen L. D. Schoeve, RDR, CRR, RSA NCRA Exp. Date: 09-30-24 18 Litigation Services Firm Registration No. 726 19 3960 Howard Hughes Parkway, Suite 700 Las Vegas, Nevada 89169 T: 877.370.3777 F: 917.591.3672 20 21 22 23 24 25 Job No. 348854</p>
<p style="text-align: right;">Page 203</p> <p>1 the oral deposition is a true record of the 2 testimony given by the witness; 3 That the original deposition was delivered to 4 Mark C. Hegarty, custodial attorney; 5 That a copy of this certificate was served on 6 all parties and/or the witness shown herein on 7 _____. 8 I further certify that the signature of the 9 witness was requested by the witness or a party 10 before the completion of the deposition and the 11 signature is to be returned within 30 days from date 12 of receipt of the transcript. 13 If returned, the attached Changes and 14 Signature Page contains any changes and the reasons 15 therefor. 16 That pursuant to information given to the 17 deposition officer at the time said testimony was 18 taken, the following includes counsel for all 19 parties of record: 20 21 FOR THE PLAINTIFFS and THE WITNESS: 22 TED G. MEADOWS, ESQUIRE 23 BEASLEY ALLEN, P.C. 24 FOR THE PLAINTIFFS: 25 CHRISTOPHER V. TISI, ESQUIRE LEVIN PAPANTONIO RAFFERTY</p>	

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